

State of Arizona
House of Representatives
Forty-eighth Legislature
Second Regular Session
2008

HOUSE BILL 2727

AN ACT

AMENDING SECTIONS 8-105, 8-509, 8-802 AND 13-1602, ARIZONA REVISED STATUTES; AMENDING SECTION 15-183, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 56, SECTION 1; AMENDING SECTIONS 15-512, 36-594.01 AND 36-594.02, ARIZONA REVISED STATUTES; AMENDING SECTION 41-619.52, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 173, SECTION 2; AMENDING SECTION 41-619.53, ARIZONA REVISED STATUTES, AS AMENDED BY LAWS 2008, CHAPTER 173, SECTION 3; AMENDING SECTIONS 41-619.54, 41-619.55, 41-1758.01, 41-1758.03 AND 41-1758.04, ARIZONA REVISED STATUTES; AMENDING TITLE 41, CHAPTER 12, ARTICLE 3.1, ARIZONA REVISED STATUTES, BY ADDING SECTION 41-1758.07; AMENDING SECTIONS 41-1964, 41-1967, 41-1967.01, 41-1968, 41-1969 AND 46-141, ARIZONA REVISED STATUTES; RELATING TO FINGERPRINT CLEARANCE CARDS.

(TEXT OF BILL BEGINS ON NEXT PAGE)

1 Be it enacted by the Legislature of the State of Arizona:

2 Section 1. Section 8-105, Arizona Revised Statutes, is amended to
3 read:

4 8-105. Preadoption certification; investigation; central
5 adoption registry

6 A. Before any prospective adoptive parent may petition to adopt a
7 child the person shall be certified by the court as acceptable to adopt
8 children. A certificate shall be issued only after an investigation
9 conducted by an officer of the court, by an agency or by the division. A
10 written application for certification shall be made directly to the court, to
11 an agency or to the division, in the form and content required by the court,
12 agency or division.

13 B. The division is not required to accept every application for
14 certification. In determining which applications to accept the division may
15 give priority to applications filed by adult residents of this state who wish
16 to adopt a child who has any ~~of the~~ special needs ~~described AS DEFINED~~ in
17 section 8-141.

18 C. After receiving and accepting the written and completed application
19 of the prospective adoptive parent or parents, which shall include a
20 financial statement and a physician's or a registered nurse practitioner's
21 statement of each applicant's physical health, the division, the agency or an
22 officer of the court shall conduct or cause to be conducted an investigation
23 of the prospective adoptive parent or parents to determine if they are fit
24 and proper persons to adopt children.

25 D. The division shall not present for certification a prospective
26 adoptive parent unless that person ~~has~~ AND EACH OTHER ADULT MEMBER OF THE
27 HOUSEHOLD HAVE a valid fingerprint clearance card issued pursuant to ~~title~~
28 ~~41, chapter 12, article 3.1 or provides to the division documentation of the~~
29 ~~person's application for a fingerprint clearance card~~ SECTION 41-1758.07.
30 The prospective adoptive parent AND EACH OTHER ADULT MEMBER OF THE HOUSEHOLD
31 must certify on forms that are provided by the division and that are
32 notarized whether ~~the prospective adoptive parent~~ THAT PERSON is awaiting
33 trial on or has ever been convicted of any of the criminal offenses listed in
34 section ~~41-1758-03~~ 41-1758.07, subsections B and C in this state or similar
35 offenses in another state or jurisdiction.

36 E. An officer of the court may obtain a state and federal criminal
37 records check pursuant to section 41-1750 and Public Law 92-544. The
38 department of public safety may exchange this fingerprint data with the
39 federal bureau of investigation.

40 F. This investigation and report to the court shall consider all
41 relevant and material facts dealing with the prospective adoptive parents'
42 fitness to adopt children and shall include:

- 43 1. A complete social history.
- 44 2. The financial condition of the applicant.
- 45 3. The moral fitness of the applicant.

- 1 4. The religious background of the applicant.
- 2 5. The physical and mental health condition of the applicants.
- 3 6. Any court action for or adjudication of child abuse, abandonment of
4 children, dependency or termination of parent-child relationship in which the
5 applicant had control, care or custody of the child who was the subject of
6 the action.
- 7 7. Whether the person or persons wish to be placed on the central
8 registry established in subsection M of this section.
- 9 8. All other facts bearing on the issue of the fitness of the
10 prospective adoptive parents that the court, agency or division may deem
11 relevant.
- 12 G. The investigator shall not reveal to the prospective adoptive
13 parents the identity of a child or the child's parent or parents and shall
14 not reveal to the child or the child's parent or parents the identity of the
15 prospective adoptive parents if these facts are not already known.
- 16 H. Within ninety days after the original application prescribed by
17 subsection A of this section has been accepted, the division or the agency or
18 a person or agency designated by the court to conduct an investigation shall
19 present to the juvenile court the written report required by subsection F of
20 this section, which shall include a definite recommendation for certifying
21 the applicant as being acceptable or nonacceptable to adopt children ~~with~~ AND
22 the reasons for the recommendation.
- 23 I. Within sixty days after receiving the investigation report required
24 by subsections F and H of this section, the court shall certify the applicant
25 as being acceptable or nonacceptable to adopt children based on the
26 investigation report and recommendations of the report. A certification
27 remains in effect for eighteen months from the date of its issuance and may
28 be extended for additional one year periods if after review the court finds
29 that there have been no material changes in circumstances that would
30 adversely affect the acceptability of the applicant to adopt.
- 31 J. The court may require additional investigation if it finds that
32 additional information is necessary on which to make an appropriate decision
33 regarding certification.
- 34 K. Any applicant who has been certified as nonacceptable may petition
35 the court to review such certification. Notice shall be given to all
36 interested parties and the matter shall be heard by the court, which may
37 affirm or reverse the certification.
- 38 L. If the applicant is certified as nonacceptable, the applicant may
39 not reapply for certification to the court, to any agency or to the division
40 for one year.
- 41 M. The division shall maintain a central adoption registry that
42 includes the names of all prospective adoptive parents currently certified by
43 the court as acceptable to adopt children, except those who request that
44 their names not be included, the names of all children who are under the
45 jurisdiction of the division and who are currently available for adoption,

1 the names of any other children who are currently available for adoption and
2 whose names are voluntarily entered in the registry by any agency, parent or
3 other person that has the right to give consent to the child's adoption, and
4 other information as the division may elect to include in aid of adoptive
5 placements. Access to information in the registry shall be made available on
6 request to any agency under assurances as the division may require that the
7 information sought is in furtherance of adoptive placements and that
8 confidentiality of the information is preserved.

9 N. This section does not apply if:

10 1. The prospective adoptive parent is the spouse of the birth or legal
11 parent of the child to be adopted or is an uncle, aunt, adult sibling,
12 grandparent or great-grandparent of the child of the whole or half-blood or
13 by marriage or adoption.

14 2. The birth or legal parent is deceased but at the time of death the
15 parent had legal and physical custody of the child to be adopted and the
16 child had resided primarily with the spouse of the birth or legal parent
17 during the twenty-four months before the death of the parent.

18 3. The grandparent, great-grandparent, aunt, adult sibling or uncle is
19 deceased but at the time of death that person had legal and physical custody
20 of the child to be adopted and the child had resided primarily with the
21 spouse of the grandparent, great-grandparent, aunt, adult sibling or uncle
22 during the twenty-four months before the death of the grandparent,
23 great-grandparent, aunt, adult sibling or uncle.

24 0. If the applicant has adopted a child within three years preceding
25 the current application and is applying to adopt another child or is a foster
26 parent who is licensed by this state, the division or agency or a person
27 designated by the court to conduct an investigation shall only provide an
28 update report on any changes in circumstances that have occurred since the
29 previous certification or licensing report. If the applicant has adopted a
30 child more than three years before the current application and is applying to
31 adopt another child, the division or agency or a person designated by the
32 court to conduct an investigation may provide an updated report on any
33 changes in circumstances that have occurred since the previous certification
34 or licensing report. The court shall certify the applicant as acceptable to
35 adopt unless there are changes in circumstances that adversely affect the
36 applicant's parenting ability. In making this determination, the court shall
37 consider information from the prior certification or licensing report.

38 Sec. 2. Section 8-509, Arizona Revised Statutes, is amended to read:

39 8-509. Licensing of foster homes; renewal of license;
40 provisional license

41 A. The division shall license and certify foster homes. Licenses are
42 valid for a period of one year.

43 B. The division shall not issue a license without satisfactory proof
44 that the foster parent or parents have completed six actual hours of approved
45 initial foster parent training as set forth in section 8-503 and that each

1 foster parent and each other adult member of the household has a valid
2 fingerprint clearance card issued pursuant to ~~title 41, chapter 12, article~~
3 ~~3.1 or provides to the division documentation of the person's application for~~
4 ~~a fingerprint clearance card~~ SECTION 41-1758.07. The foster parent and each
5 other adult member of the household must certify on forms that are provided
6 by the division and that are notarized whether the foster parent or other
7 adult member of the household is awaiting trial on or has ever been convicted
8 of any of the criminal offenses listed in section ~~41-1758.03~~ 41-1758.07,
9 subsections B and C in this state or similar offenses in another state or
10 jurisdiction.

11 C. The division shall not renew a license without satisfactory proof
12 that the foster parent or parents have completed six actual hours of approved
13 ongoing foster parent training as set forth in section 8-503.

14 D. Notwithstanding the requirements of subsections B and C of this
15 section, if the division determines a condition of hardship to the foster
16 parent or parents, the division may issue a provisional license for a period
17 not to exceed six months. A provisional license may not be renewed.

18 E. Child welfare agencies that submit foster homes for licensing shall
19 conduct an investigation of the foster home pursuant to licensing rules of
20 the division. The division shall conduct investigations of all other foster
21 homes. If the foster home meets all requirements set by the division, the
22 agency shall submit an application stating the foster home's qualifications
23 to the division. The agency may also recommend the types of licensing and
24 certification to be granted to the foster home.

25 F. The division shall accept an adoptive home certification study as a
26 licensing home study if the study has been updated within the past three
27 months to include the information necessary to determine whether the home
28 meets foster care licensing standards.

29 G. This section shall not apply when the child is placed in a home by
30 a means other than by court order and when the home receives no compensation
31 from the state or any political subdivision of the state.

32 H. The division shall not prohibit a person operating a licensed
33 foster home from applying for or receiving compensation as a foster home
34 parent due to employment with the state of Arizona.

35 Sec. 3. Section 8-802, Arizona Revised Statutes, is amended to read:
36 8-802. Child protective services worker; fingerprint clearance
37 cards; powers and duties; alteration of files;
38 violation; classification

39 A. The department of economic security shall employ child protective
40 services workers. All persons who are employed as child protective services
41 workers shall have a valid fingerprint clearance card that is issued pursuant
42 to ~~title 41, chapter 12, article 3.1~~ SECTION 41-1758.07 or shall apply for a
43 fingerprint clearance card within seven working days of employment. A child
44 protective services worker shall certify on forms that are provided by the
45 department of economic security and that are notarized whether the worker is

1 awaiting trial on or has ever been convicted of any of the criminal offenses
2 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
3 similar offenses in another state or jurisdiction.

4 B. The department may cooperate with county agencies and community
5 social services agencies to achieve the purposes of this section.

6 C. A child protective services worker shall:

7 1. Promote the safety and protection of children.

8 2. Accept, screen and assess reports of abuse or neglect pursuant to
9 section 8-817.

10 3. Receive reports of dependent, abused or abandoned children and be
11 prepared to provide temporary foster care for such children on a twenty-four
12 hour basis.

13 4. Receive from any source oral or written information regarding a
14 child who may be in need of protective services. A worker shall not
15 interview a child without the prior written consent of the parent, guardian
16 or custodian of the child unless either:

17 (a) The child initiates contact with the worker.

18 (b) The child who is interviewed is the subject of or is the sibling
19 of or living with the child who is the subject of an abuse or abandonment
20 investigation pursuant to paragraph 5, subdivision (b) of this subsection.

21 5. After the receipt of any report or information pursuant to
22 paragraph 2, 3 or 4 of this subsection, immediately do both of the following:

23 (a) Notify the municipal or county law enforcement agency.

24 (b) Make a prompt and thorough investigation of the nature, extent and
25 cause of any condition that would tend to support or refute the allegation
26 that the child should be adjudicated dependent and the name, age and
27 condition of other children in the home. An extremely serious conduct
28 allegation shall be investigated according to the protocols established
29 pursuant to section 8-817 with the appropriate municipal or county law
30 enforcement agency as provided in section 8-817.

31 6. Take a child into temporary custody as provided in section 8-821.
32 Law enforcement officers shall cooperate with the department to remove a
33 child from the custody of the child's parents, guardian or custodian when
34 necessary.

35 7. After investigation, evaluate conditions created by the parents,
36 guardian or custodian that would support or refute the allegation that the
37 child should be adjudicated dependent. The child protective services worker
38 shall then determine whether any child is in need of protective services.

39 8. Offer to the family of any child who is found to be a child in need
40 of protective services those services that are designed to correct unresolved
41 problems that would indicate a reason to adjudicate the child dependent.

42 9. Submit a written report of the worker's investigation to:

43 (a) The department's case management information system within
44 twenty-one days after receipt of the initial information except as provided
45 in section 8-811. If the investigation involves allegations regarding a

1 child who at the time of the alleged incident was in the custody of a child
2 welfare agency licensed by the department of economic security under this
3 title, a copy of the report and any additional investigative or other related
4 reports shall be provided to the board of directors of the agency or to the
5 administrative head of the agency unless the incident is alleged to have been
6 committed by the person. The department shall excise all information with
7 regard to the identity of the source of the reports.

8 (b) The appropriate court forty-eight hours before a dependency
9 hearing pursuant to a petition of dependency or within twenty-one days after
10 a petition of dependency is filed, whichever is earlier. On receipt of the
11 report the court shall make the report available to all parties and counsel.

12 10. Accept a child into voluntary placement pursuant to section 8-806.

13 D. No child shall remain in temporary custody for a period exceeding
14 seventy-two hours, excluding Saturdays, Sundays and holidays, unless a
15 dependency petition is filed. If no petition is filed and the child is
16 released to the child's parent, guardian or custodian, the worker shall file
17 a report of removal with the central registry within seventy-two hours of the
18 child's release. The report shall include:

19 1. The dates of previous referrals, investigations or temporary
20 custody.

21 2. The dates on which other children in the family have been taken
22 into temporary custody.

23 E. The department shall provide child protective services workers who
24 investigate allegations of abuse and neglect with training in forensic
25 interviewing and processes, the protocols developed pursuant to section 8-817
26 and relevant law enforcement procedures. All child protective services
27 workers shall be trained in their duty to protect the legal rights of
28 children and families from the time of the initial contact through treatment.
29 The training for child protective services workers shall also include
30 instruction on the legal rights of parents and the requirements for legal
31 search and seizure by law enforcement officers.

32 F. In conducting an investigation pursuant to this section, if the
33 worker is made aware that an allegation of abuse or neglect may also have
34 been made in another state, the worker shall contact the appropriate agency
35 in that state to attempt to determine the outcome of any investigation of
36 that allegation.

37 G. Any person who alters a client file for the purpose of fraud or
38 misrepresentation is guilty of a class 2 misdemeanor.

39 Sec. 4. Section 13-1602, Arizona Revised Statutes, is amended to read:

40 13-1602. Criminal damage; classification

41 A. A person commits criminal damage by recklessly:

42 1. Defacing or damaging property of another person; or

43 2. Tampering with property of another person so as substantially to
44 impair its function or value; or

45 3. Tampering with the property of a utility.

1 4. Parking any vehicle in such a manner as to deprive livestock of
2 access to the only reasonably available water.

3 5. Drawing or inscribing a message, slogan, sign or symbol that is
4 made on any public or private building, structure or surface, except the
5 ground, and that is made without permission of the owner.

6 B. Criminal damage is punished as follows:

7 1. Criminal damage is a class 4 felony if the person recklessly
8 damages property of another in an amount of ten thousand dollars or more, or
9 if the person recklessly causes impairment of the functioning of any utility.

10 2. Criminal damage is a class 5 felony if the person recklessly
11 damages property of another in an amount of two thousand dollars or more but
12 less than ten thousand dollars.

13 3. Criminal damage is a class ~~6-felony~~ 1 MISDEMEANOR if the person
14 recklessly damages property of another in an amount of more than two hundred
15 fifty dollars but less than two thousand dollars.

16 4. In all other cases criminal damage is a class 2 misdemeanor.

17 Sec. 5. Section 15-183, Arizona Revised Statutes, as amended by Laws
18 2008, chapter 56, section 1, is amended to read:

19 15-183. Charter schools; application; requirements; immunity;
20 exemptions; renewal of application; reprisal

21 A. An applicant seeking to establish a charter school shall submit a
22 written application to a proposed sponsor as prescribed in subsection C of
23 this section. The application shall include a detailed business plan for the
24 charter school and may include a mission statement for the charter school, a
25 description of the charter school's organizational structure and the
26 governing body, a financial plan for the first three years of operation of
27 the charter school, a description of the charter school's hiring policy, the
28 name of the charter school's applicant or applicants and requested sponsor, a
29 description of the charter school's facility and the location of the school,
30 a description of the grades being served and an outline of criteria designed
31 to measure the effectiveness of the school.

32 B. The sponsor of a charter school may contract with a public body,
33 private person or private organization for the purpose of establishing a
34 charter school pursuant to this article.

35 C. The sponsor of a charter school may be either a school district
36 governing board, the state board of education or the state board for charter
37 schools, subject to the following requirements:

38 1. For charter schools that submit an application for sponsorship to a
39 school district governing board:

40 (a) An applicant for a charter school may submit its application to a
41 school district governing board, which shall either accept or reject
42 sponsorship of the charter school within ninety days. An applicant may
43 submit a revised application for reconsideration by the governing board. If
44 the governing board rejects the application, the governing board shall notify
45 the applicant in writing of the reasons for the rejection. The applicant may

1 request, and the governing board may provide, technical assistance to improve
2 the application.

3 (b) In the first year that a school district is determined to be out
4 of compliance with the uniform system of financial records, within fifteen
5 days of the determination of noncompliance, the school district shall notify
6 by certified mail each charter school sponsored by the school district that
7 the school district is out of compliance with the uniform system of financial
8 records. The notification shall include a statement that if the school
9 district is determined to be out of compliance for a second consecutive year,
10 the charter school will be required to transfer sponsorship to another entity
11 pursuant to subdivision (c) of this paragraph.

12 (c) In the second consecutive year that a school district is
13 determined to be out of compliance with the uniform system of financial
14 records, within fifteen days of the determination of noncompliance, the
15 school district shall notify by certified mail each charter school sponsored
16 by the school district that the school district is out of compliance with the
17 uniform system of financial records. A charter school that receives a
18 notification of school district noncompliance pursuant to this subdivision
19 shall file a written sponsorship transfer application within forty-five days
20 with the state board of education, the state board for charter schools or the
21 school district governing board if the charter school is located within the
22 geographic boundaries of that school district. A charter school that
23 receives a notification of school district noncompliance may request an
24 extension of time to file a sponsorship transfer application and the state
25 board of education, the state board for charter schools or a school district
26 governing board may grant an extension of not more than an additional thirty
27 days if good cause exists for the extension. The state board of education
28 and the state board for charter schools shall approve a sponsorship transfer
29 application pursuant to this paragraph.

30 (d) Beginning July 1, 2000, a school district governing board shall
31 not grant a charter to a charter school that is located outside the
32 geographic boundaries of that school district.

33 (e) A school district that has been determined to be out of compliance
34 with the uniform system of financial records during either of the previous
35 two fiscal years shall not sponsor a new or transferring charter school.

36 2. The applicant may submit the application to the state board of
37 education or the state board for charter schools. The state board of
38 education or the state board for charter schools may approve the application
39 if the application meets the requirements of this article and may approve the
40 charter if the proposed sponsor determines, within its sole discretion, that
41 the applicant is sufficiently qualified to operate a charter school. The
42 state board of education or the state board for charter schools may approve
43 any charter schools transferring charters. The state board of education and
44 the state board for charter schools shall approve any charter schools
45 transferring charters from a school district that is determined to be out of

1 compliance with the uniform system of financial records pursuant to this
2 section, but may require the charter school to sign a new charter that is
3 equivalent to the charter awarded by the former sponsor. If the state board
4 of education or the state board for charter schools rejects the preliminary
5 application, the state board of education or the state board for charter
6 schools shall notify the applicant in writing of the reasons for the
7 rejection and of suggestions for improving the application. An applicant may
8 submit a revised application for reconsideration by the state board of
9 education or the state board for charter schools. The applicant may request,
10 and the state board of education or the state board for charter schools may
11 provide, technical assistance to improve the application.

12 3. Each applicant seeking to establish a charter school shall submit a
13 full set of fingerprints to the approving agency for the purpose of obtaining
14 a state and federal criminal records check pursuant to section 41-1750 and
15 Public Law 92-544. If an applicant will have direct contact with students,
16 the applicant shall possess a valid fingerprint clearance card that is issued
17 pursuant to title 41, chapter 12, article 3.1. The department of public
18 safety may exchange this fingerprint data with the federal bureau of
19 investigation. The criminal records check shall be completed before the
20 issuance of a charter.

21 4. All persons engaged in instructional work directly as a classroom,
22 laboratory or other teacher or indirectly as a supervisory teacher, speech
23 therapist or principal shall have a valid fingerprint clearance card that is
24 issued pursuant to title 41, chapter 12, article 3.1, unless the person is a
25 volunteer or guest speaker who is accompanied in the classroom by a person
26 with a valid fingerprint clearance card. A charter school shall not employ a
27 teacher whose certificate has been revoked for a violation of section 15-507
28 or 15-550 or for any offense that placed a pupil in danger. All other
29 personnel shall be fingerprint checked pursuant to section 15-512. **A CHARTER**
30 **SCHOOL SHALL REFUSE TO HIRE OR MAY REVIEW OR TERMINATE PERSONNEL FINGERPRINT**
31 **CHECKED PURSUANT TO SECTION 15-512 WHO HAVE BEEN CONVICTED OF OR ADMITTED**
32 **COMMITTING ANY OF THE CRIMINAL OFFENSES PRESCRIBED IN SECTION 15-512,**
33 **SUBSECTION D OR OF A SIMILAR OFFENSE IN ANOTHER JURISDICTION.** Before
34 employment, the charter school shall make documented, good faith efforts to
35 contact previous employers of a person to obtain information and
36 recommendations that may be relevant to a person's fitness for employment as
37 prescribed in section 15-512, subsection F. The charter school shall notify
38 the department of public safety if the charter school or sponsor receives
39 credible evidence that a person who possesses a valid fingerprint clearance
40 card is arrested for or is charged with an offense listed in section
41 41-1758.03, subsection B. Charter schools may hire personnel that have not
42 yet received a fingerprint clearance card if proof is provided of the
43 submission of an application to the department of public safety for a
44 fingerprint clearance card and if the charter school that is seeking to hire
45 the applicant does all of the following:

1 (a) Documents in the applicant's file the necessity for hiring and
2 placement of the applicant before receiving a fingerprint clearance card.

3 (b) Ensures that the department of public safety completes a statewide
4 criminal history information check on the applicant. A statewide criminal
5 history information check shall be completed by the department of public
6 safety every one hundred twenty days until the date that the fingerprint
7 check is completed.

8 (c) Obtains references from the applicant's current employer and the
9 two most recent previous employers except for applicants who have been
10 employed for at least five years by the applicant's most recent employer.

11 (d) Provides general supervision of the applicant until the date that
12 the fingerprint card is obtained.

13 (e) Completes a search of criminal records in all local jurisdictions
14 outside of this state in which the applicant has lived in the previous five
15 years.

16 (f) Verifies the fingerprint status of the applicant with the
17 department of public safety.

18 5. If a charter school operator is not already subject to a public
19 meeting or hearing by the municipality in which the charter school is
20 located, the operator of a charter school shall conduct a public meeting at
21 least thirty days before the charter school operator opens a site or sites
22 for the charter school. The charter school operator shall post notices of
23 the public meeting in at least three different locations that are within
24 three hundred feet of the proposed charter school site.

25 D. A board that is authorized to sponsor charter schools pursuant to
26 this article has no legal authority over or responsibility for a charter
27 school sponsored by a different board. This subsection does not apply to the
28 state board of education's duty to exercise general supervision over the
29 public school system pursuant to section 15-203, subsection A, paragraph 1.

30 E. The charter of a charter school shall ensure the following:

31 1. Compliance with federal, state and local rules, regulations and
32 statutes relating to health, safety, civil rights and insurance. The
33 department of education shall publish a list of relevant rules, regulations
34 and statutes to notify charter schools of their responsibilities under this
35 paragraph.

36 2. That it is nonsectarian in its programs, admission policies and
37 employment practices and all other operations.

38 3. That it provides a comprehensive program of instruction for at
39 least a kindergarten program or any grade between grades one and twelve,
40 except that a school may offer this curriculum with an emphasis on a specific
41 learning philosophy or style or certain subject areas such as mathematics,
42 science, fine arts, performance arts or foreign language.

43 4. That it designs a method to measure pupil progress, toward the
44 pupil outcomes adopted by the state board of education pursuant to section
45 15-741.01 including participation in the Arizona instrument to measure

1 standards test and the nationally standardized norm-referenced achievement
2 test as designated by the state board and the completion and distribution of
3 an annual report card as prescribed in chapter 7, article 3 of this title.

4 5. That, except as provided in this article and in its charter, it is
5 exempt from all statutes and rules relating to schools, governing boards and
6 school districts.

7 6. That, except as provided in this article, it is subject to the same
8 financial and electronic data submission requirements as a school district,
9 including the uniform system of financial records as prescribed in chapter 2,
10 article 4 of this title, procurement rules as prescribed in section 15-213
11 and audit requirements. The auditor general shall conduct a comprehensive
12 review and revision of the uniform system of financial records to ensure that
13 the provisions of the uniform system of financial records that relate to
14 charter schools are in accordance with commonly accepted accounting
15 principles used by private business. A school's charter may include
16 exceptions to the requirements of this paragraph that are necessary as
17 determined by the district governing board, the state board of education or
18 the state board for charter schools. The department of education or the
19 office of the auditor general may conduct financial, program or compliance
20 audits.

21 7. Compliance with all federal and state laws relating to the
22 education of children with disabilities in the same manner as a school
23 district.

24 8. That it provides for a governing body for the charter school that
25 is responsible for the policy decisions of the charter school.

26 9. That it provides a minimum of one hundred seventy-five
27 instructional days before June 30 of each fiscal year unless it is operating
28 on an alternative calendar approved by its sponsor. The superintendent of
29 public instruction shall adjust the apportionment schedule accordingly to
30 accommodate a charter school utilizing an alternative calendar.

31 F. The charter of a charter school shall include a description of the
32 charter school's personnel policies, personnel qualifications and method of
33 school governance and the specific role and duties of the sponsor of the
34 charter school. A charter school shall keep on file the resumes of all
35 current and former employees who provide instruction to pupils at the charter
36 school. Resumes shall include an individual's educational and teaching
37 background and experience in a particular academic content subject area. A
38 charter school shall inform parents and guardians of the availability of the
39 resume information and shall make the resume information available for
40 inspection on request of parents and guardians of pupils enrolled at the
41 charter school. Nothing in this subsection shall be construed to require any
42 charter school to release personally identifiable information in relation to
43 any teacher or employee including the teacher's or employee's address,
44 salary, social security number or telephone number.

1 G. The charter of a charter school may be amended at the request of
2 the governing body of the charter school and on the approval of the sponsor.

3 H. Charter schools may contract, sue and be sued.

4 I. An approved plan to establish a charter school is effective for
5 fifteen years from the first day of operation. At least eighteen months
6 before the expiration of the approved plan, the sponsor shall notify the
7 charter school that the charter school may apply for renewal. A charter
8 school that elects to apply for renewal shall file an application for renewal
9 at least fifteen months before the expiration of the approved plan. In
10 addition to any other requirements, the application for renewal shall include
11 a detailed business plan for the charter school. The sponsor may deny the
12 request for renewal if, in its judgment, the charter school has failed to
13 complete the obligations of the contract or has failed to comply with this
14 article. A sponsor shall give written notice of its intent not to renew the
15 charter school's request for renewal to the charter school at least twelve
16 months before the expiration of the approved plan to allow the charter school
17 an opportunity to apply to another sponsor to transfer the operation of the
18 charter school. If the operation of the charter school is transferred to
19 another sponsor, the fifteen year period of the current charter shall be
20 maintained. A sponsor shall review a charter at five year intervals and may
21 revoke a charter at any time if the charter school breaches one or more
22 provisions of its charter. At least ninety days before the effective date of
23 the proposed revocation the sponsor shall give written notice to the operator
24 of the charter school of its intent to revoke the charter. Notice of the
25 sponsor's intent to revoke the charter shall be delivered personally to the
26 operator of the charter school or sent by certified mail, return receipt
27 requested, to the address of the charter school. The notice shall
28 incorporate a statement of reasons for the proposed revocation of the
29 charter. The sponsor shall allow the charter school at least ninety days to
30 correct the problems associated with the reasons for the proposed revocation
31 of the charter. The final determination of whether to revoke the charter
32 shall be made at a public hearing called for such purpose.

33 J. After renewal of the charter at the end of the fifteen year period
34 described in subsection I of this section, the charter may be renewed for
35 successive periods of fifteen years if the charter school and its sponsor
36 deem that the school is in compliance with its own charter and this article.

37 K. A charter school that is sponsored by the state board of education
38 or the state board for charter schools may not be located on the property of
39 a school district unless the district governing board grants this authority.

40 L. A governing board or a school district employee who has control
41 over personnel actions shall not take unlawful reprisal against another
42 employee of the school district because the employee is directly or
43 indirectly involved in an application to establish a charter school. A
44 governing board or a school district employee shall not take unlawful
45 reprisal against an educational program of the school or the school district

1 because an application to establish a charter school proposes the conversion
2 of all or a portion of the educational program to a charter school. For the
3 purposes of this subsection, "unlawful reprisal" means an action that is
4 taken by a governing board or a school district employee as a direct result
5 of a lawful application to establish a charter school and that is adverse to
6 another employee or an education program and:

7 1. With respect to a school district employee, results in one or more
8 of the following:

- 9 (a) Disciplinary or corrective action.
- 10 (b) Detail, transfer or reassignment.
- 11 (c) Suspension, demotion or dismissal.
- 12 (d) An unfavorable performance evaluation.
- 13 (e) A reduction in pay, benefits or awards.
- 14 (f) Elimination of the employee's position without a reduction in
15 force by reason of lack of monies or work.
- 16 (g) Other significant changes in duties or responsibilities that are
17 inconsistent with the employee's salary or employment classification.

18 2. With respect to an educational program, results in one or more of
19 the following:

- 20 (a) Suspension or termination of the program.
- 21 (b) Transfer or reassignment of the program to a less favorable
22 department.
- 23 (c) Relocation of the program to a less favorable site within the
24 school or school district.
- 25 (d) Significant reduction or termination of funding for the program.

26 M. Charter schools shall secure insurance for liability and property
27 loss. The governing body of a charter school that is sponsored by the state
28 board of education or the state board for charter schools may enter into an
29 intergovernmental agreement or otherwise contract to participate in an
30 insurance program offered by a risk retention pool established pursuant to
31 section 11-952.01 or 41-621.01 or the charter school may secure its own
32 insurance coverage. The pool may charge the requesting charter school
33 reasonable fees for any services it performs in connection with the insurance
34 program.

35 N. Charter schools do not have the authority to acquire property by
36 eminent domain.

37 O. A sponsor, including members, officers and employees of the
38 sponsor, is immune from personal liability for all acts done and actions
39 taken in good faith within the scope of its authority.

40 P. Charter school sponsors and this state are not liable for the debts
41 or financial obligations of a charter school or persons who operate charter
42 schools.

43 Q. The sponsor of a charter school shall establish procedures to
44 conduct administrative hearings on determination by the sponsor that grounds
45 exist to revoke a charter. Procedures for administrative hearings shall be

1 similar to procedures prescribed for adjudicative proceedings in title 41,
2 chapter 6, article 10. Except as provided in section 41-1092.08, subsection
3 H, final decisions of the state board of education and the state board for
4 charter schools from hearings conducted pursuant to this subsection are
5 subject to judicial review pursuant to title 12, chapter 7, article 6.

6 R. The sponsoring entity of a charter school shall have oversight and
7 administrative responsibility for the charter schools that it sponsors.

8 S. Charter schools may pledge, assign or encumber their assets to be
9 used as collateral for loans or extensions of credit.

10 T. All property accumulated by a charter school shall remain the
11 property of the charter school.

12 U. Charter schools may not locate a school on property that is less
13 than one-fourth mile from agricultural land regulated pursuant to section
14 3-365, except that the owner of the agricultural land may agree to comply
15 with the buffer zone requirements of section 3-365. If the owner agrees in
16 writing to comply with the buffer zone requirements and records the agreement
17 in the office of the county recorder as a restrictive covenant running with
18 the title to the land, the charter school may locate a school within the
19 affected buffer zone. The agreement may include any stipulations regarding
20 the charter school, including conditions for future expansion of the school
21 and changes in the operational status of the school that will result in a
22 breach of the agreement.

23 V. A transfer of a charter to another sponsor, a transfer of a charter
24 school site to another sponsor or a transfer of a charter school site to a
25 different charter shall be completed before the beginning of the fiscal year
26 that the transfer is scheduled to become effective. An entity that sponsors
27 charter schools may accept a transferring school after the beginning of the
28 fiscal year if the transfer is approved by the superintendent of public
29 instruction. The superintendent of public instruction shall have the
30 discretion to consider each transfer during the fiscal year on a case by case
31 basis. If a charter school is sponsored by a school district that is
32 determined to be out of compliance with this title, the uniform system of
33 financial records or any other state or federal law, the charter school may
34 transfer to another sponsoring entity at any time during the fiscal year.

35 W. The sponsoring entity may not charge any fees to a charter school
36 that it sponsors unless the sponsor has provided services to the charter
37 school and the fees represent the full value of those services provided by
38 the sponsor. On request, the value of the services provided by the sponsor
39 to the charter school shall be demonstrated to the department of education.

40 Sec. 6. Section 15-512, Arizona Revised Statutes, is amended to read:

41 15-512. Noncertificated personnel; fingerprinting personnel;
42 background investigations; affidavit; civil immunity;
43 violation; classification; definition

44 A. Noncertificated personnel and personnel who are not paid employees
45 of the school district and who are not either the parent or the guardian of a

1 pupil who attends school in the school district but who are required or
2 allowed to provide services directly to pupils without the supervision of a
3 certificated employee and who are initially hired by a school district after
4 January 1, 1990 shall be fingerprinted as a condition of employment except
5 for personnel who are required as a condition of licensing to be
6 fingerprinted if the license is required for employment or for personnel who
7 were previously employed by a school district and who reestablished
8 employment with that district within one year after the date that the
9 employee terminated employment with the district. A school district may
10 release the results of a background check to another school district for
11 employment purposes. The employee's fingerprints and the form prescribed in
12 subsection D of this section shall be submitted to the school district within
13 twenty days after the date an employee begins work. A school district may
14 terminate an employee if the information on the form provided under
15 subsection D of this section is inconsistent with the information received
16 from the fingerprint check. The school district shall develop procedures for
17 fingerprinting employees. For the purposes of this subsection, "supervision"
18 means under the direction of and, except for brief periods of time during a
19 school day or a school activity, within sight of a certificated employee when
20 providing direct services to pupils.

21 B. Fingerprint checks shall be conducted pursuant to section 41-1750,
22 subsection G.

23 C. The school district shall assume the costs of fingerprint checks
24 and may charge these costs to its fingerprinted employee, except that the
25 school district may not charge the costs of the fingerprint check to
26 personnel of the school district who are not paid employees. The fees charged
27 for fingerprinting shall be deposited with the county treasurer who shall
28 credit the deposit to the fingerprint fund of the school district. The costs
29 charged to a fingerprinted employee are limited to and the proceeds in the
30 fund may only be applied to the actual costs, including personnel costs,
31 incurred as a result of the fingerprint checks. The fingerprint fund is a
32 continuing fund which is not subject to reversion.

33 D. Personnel required to be fingerprinted as prescribed in subsection
34 A of this section shall certify on forms that are provided by the school and
35 notarized whether they are awaiting trial on or have ever been convicted of
36 or admitted in open court or pursuant to a plea agreement committing any of
37 the following criminal offenses in this state or similar offenses in another
38 jurisdiction:

- 39 ~~1. Sexual abuse of a minor.~~
- 40 ~~2. Incest.~~
- 41 ~~3. First or second degree murder.~~
- 42 ~~4. Kidnapping.~~
- 43 ~~5. Arson.~~
- 44 ~~6. Sexual assault.~~
- 45 ~~7. Sexual exploitation of a minor.~~

- 1 ~~8. Felony offenses involving contributing to the delinquency of a~~
- 2 ~~minor.~~
- 3 ~~9. Commercial sexual exploitation of a minor.~~
- 4 ~~10. Felony offenses involving sale, distribution or transportation of,~~
- 5 ~~offer to sell, transport, or distribute or conspiracy to sell, transport or~~
- 6 ~~distribute marijuana or dangerous or narcotic drugs.~~
- 7 ~~11. Felony offenses involving the possession or use of marijuana,~~
- 8 ~~dangerous drugs or narcotic drugs.~~
- 9 ~~12. Misdemeanor offenses involving the possession or use of marijuana~~
- 10 ~~or dangerous drugs.~~
- 11 ~~13. Burglary in the first degree.~~
- 12 ~~14. Burglary in the second or third degree.~~
- 13 ~~15. Aggravated or armed robbery.~~
- 14 ~~16. Robbery.~~
- 15 1. SEXUAL ABUSE OF A VULNERABLE ADULT.
- 16 2. INCEST.
- 17 3. FIRST OR SECOND DEGREE MURDER.
- 18 4. SEXUAL ASSAULT.
- 19 5. SEXUAL EXPLOITATION OF A MINOR.
- 20 6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 21 7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 22 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 23 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 24 10. CHILD ABUSE.
- 25 11. ABUSE OF A VULNERABLE ADULT.
- 26 12. SEXUAL CONDUCT WITH A MINOR.
- 27 13. MOLESTATION OF A CHILD.
- 28 14. MOLESTATION OF A VULNERABLE ADULT.
- 29 ~~17.~~ 15. A dangerous crime against children as defined in section
- 30 13-604.01.
- 31 ~~18. Child abuse.~~
- 32 ~~19. Sexual conduct with a minor.~~
- 33 ~~20. Molestation of a child.~~
- 34 ~~21. Manslaughter.~~
- 35 ~~22. Aggravated assault.~~
- 36 ~~23. Assault.~~
- 37 ~~24. Exploitation of minors involving drug offenses.~~
- 38 16. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 39 17. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN
- 40 SECTION 13-3206.
- 41 18. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 42 19. SEX TRAFFICKING.
- 43 20. SEXUAL ABUSE.
- 44 21. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
- 45 OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.

- 1 22. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
- 2 13-3506.
- 3 23. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS
- 4 PRESCRIBED IN SECTION 13-3506.01.
- 5 24. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
- 6 COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.
- 7 25. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 8 26. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.
- 9 27. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF
- 10 PROSTITUTION.
- 11 28. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.
- 12 29. RECEIVING EARNINGS OF A PROSTITUTE.
- 13 30. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 14 31. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.
- 15 32. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN
- 16 PROSTITUTION.
- 17 33. PANDERING.
- 18 34. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND
- 19 CONCUBINAGE.
- 20 35. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.
- 21 36. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED
- 22 IN SECTION 13-3558.
- 23 37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
- 24 38. CHILD BIGAMY.
- 25 E. A school district ~~may~~ SHALL refuse to hire or may review or
- 26 terminate personnel who have been convicted of or admitted committing any of
- 27 the criminal offenses prescribed in subsection D of this section or of a
- 28 similar offense in another jurisdiction. A school district which is
- 29 considering terminating an employee pursuant to the provisions of this
- 30 subsection shall hold a hearing to determine whether a person already
- 31 employed shall be terminated. In conducting a review, the governing board
- 32 shall utilize the guidelines, including the list of offenses that are not
- 33 subject to review, as prescribed by the state board of education pursuant to
- 34 section 15-534, subsection C. In considering whether to hire or terminate
- 35 the employment of a person the governing board shall take into account the
- 36 following factors:
- 37 1. The nature of the crime and the potential for crimes against
- 38 children.
- 39 2. Offenses committed as a minor for which proceedings were held under
- 40 the jurisdiction of a juvenile or an adult court.
- 41 3. Offenses that have been expunged by a court of competent
- 42 jurisdiction, if the person has been pardoned or if the person's sentence has
- 43 been commuted.

1 4. The employment record of the person since the commission of the
2 crime if the crime was committed more than ten years before the governing
3 board's consideration of whether to hire or terminate the person.

4 5. The reliability of the evidence of an admission of a crime unless
5 made under oath in a court of competent jurisdiction.

6 F. Before employment with the school district, the district shall make
7 documented, good faith efforts to contact previous employers of a person to
8 obtain information and recommendations which may be relevant to a person's
9 fitness for employment. A governing board shall adopt procedures for
10 conducting background investigations required by this subsection, including
11 one or more standard forms for use by school district officials to document
12 their efforts to obtain information from previous employers. A school
13 district may provide information received as a result of a background
14 investigation required by this section to any other school district, to any
15 other public school and to any public entity that agrees pursuant to a
16 contract or intergovernmental agreement to perform background investigations
17 for school districts or other public schools. School districts and other
18 public schools may enter into intergovernmental agreements pursuant to
19 section 11-952 and cooperative purchasing agreements pursuant to rules
20 adopted in accordance with section 15-213 for the purposes of performing or
21 contracting for the performance of background investigations and for sharing
22 the results of background investigations required by this subsection.
23 Information obtained about an employee or applicant for employment by any
24 school district or other public school in the performance of a background
25 investigation may be retained by that school district or the other public
26 school or by any public entity that agrees pursuant to contract to perform
27 background investigations for school districts or other public schools and
28 may be provided to any school district or other public school that is
29 performing a background investigation required by this subsection.

30 G. A school district may fingerprint any other employee of the
31 district, whether paid or not, or any other applicant for employment with the
32 school district not otherwise required by this section to be fingerprinted on
33 the condition that the school district may not charge the costs of the
34 fingerprint check to the fingerprinted applicant or nonpaid employee.

35 H. Subsection A of this section does not apply to a person who
36 provides instruction or other education services to a pupil, with the written
37 consent of the parent or guardian of the pupil, under a work release program,
38 advance placement course or other education program that occurs off school
39 property.

40 I. Public entities that agree pursuant to contract to perform
41 background investigations, public schools, the department of education and
42 previous employers who provide information pursuant to this section are
43 immune from civil liability unless the information provided is false and is
44 acted on by the school district to the harm of the employee and the public
45 entity, the public school, the previous employer or the department of

1 education knows the information is false or acts with reckless disregard of
2 the information's truth or falsity. A school district which relies on
3 information obtained pursuant to this section in making employment decisions
4 is immune from civil liability for use of the information unless the
5 information obtained is false and the school district knows the information
6 is false or acts with reckless disregard of the information's truth or
7 falsity.

8 J. The superintendent of a school district or chief administrator of a
9 charter school or the person's designee who is responsible for implementing
10 the governing board's policy regarding background investigations required by
11 subsection F of this section and who fails to carry out that responsibility
12 is guilty of unprofessional conduct and shall be subject to disciplinary
13 action by the state board.

14 K. A school district may hire noncertificated personnel before
15 receiving the results of the fingerprint check but may terminate employment
16 if the information on the form provided in subsection D of this section is
17 inconsistent with the information received from the fingerprint check. In
18 addition to any other conditions or requirements deemed necessary by the
19 superintendent of public instruction to protect the health and safety of
20 pupils, noncertificated personnel who are required or allowed unsupervised
21 contact with pupils may be hired by school districts before the results of a
22 fingerprint check are received if all of the following conditions are met:

23 1. The school district that is seeking to hire the applicant shall
24 document in the applicant's file the necessity for hiring and placement of
25 the applicant before a fingerprint check could be completed.

26 2. The school district that is seeking to hire the applicant shall do
27 all of the following:

28 (a) Ensure that the department of public safety completes a statewide
29 criminal history information check on the applicant. A statewide criminal
30 history information check shall be completed by the department of public
31 safety every one hundred twenty days until the date that the fingerprint
32 check is completed.

33 (b) Obtain references from the applicant's current employer and two
34 most recent previous employers except for applicants who have been employed
35 for at least five years by the applicant's most recent employer.

36 (c) Provide general supervision of the applicant until the date that
37 the fingerprint check is completed.

38 (d) Report to the superintendent of public instruction on June 30 and
39 December 31 the number of applicants hired prior to the completion of a
40 fingerprint check. In addition, the school district shall report the number
41 of applicants for whom fingerprint checks were not received after one hundred
42 twenty days and after one hundred seventy-five days of hire.

43 L. Notwithstanding any other law, this section does not apply to
44 pupils who attend school in a school district and who are also employed by a
45 school district.

1 M. A person who makes a false statement, representation or
2 certification in any application for employment with the school district is
3 guilty of a class 3 misdemeanor.

4 N. For the purpose of this section, "background investigation" means
5 any communication with an employee's or applicant's former employer that
6 concerns the education, training, experience, qualifications and job
7 performance of the employee or applicant and that is used for the purpose of
8 evaluating the employee or applicant for employment. Background
9 investigation does not include the results of any state or federal criminal
10 history records check.

11 Sec. 7. Section 36-594.01, Arizona Revised Statutes, is amended to
12 read:

13 36-594.01. Fingerprinting of contract providers and home and
14 community based service providers

15 A. The following persons shall be fingerprinted pursuant to ~~title 41,~~
16 ~~chapter 12, article 3.1~~ SECTION 41-1758.07:

17 1. A person who is paid or who volunteers to work in a facility or
18 program that is licensed by or that has entered into a contract with the
19 division of developmental disabilities to provide services to persons with
20 developmental disabilities.

21 2. A person who applies for certification as a home and community
22 based service provider.

23 B. A person who is required to be fingerprinted pursuant to subsection
24 A, paragraph 1 of this section shall have a valid fingerprint clearance card
25 or shall apply for a fingerprint clearance card before providing services to
26 persons with developmental disabilities.

27 C. A person who is required to be fingerprinted pursuant to subsection
28 A, paragraph 2 of this section shall not be certified unless the person has a
29 valid fingerprint clearance card or provides to the division of developmental
30 disabilities documentation of the person's application for a fingerprint
31 clearance card.

32 D. This section does not apply to home and community based service
33 providers who provide attendant care and who are immediate relatives with
34 whom the person with developmental disabilities resides.

35 E. Persons who are required to be fingerprinted pursuant to subsection
36 A of this section shall certify on forms that are provided by the department
37 whether the person is awaiting trial on or has been convicted of any of the
38 offenses listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C.

39 F. The division of developmental disabilities in the department of
40 economic security shall notify the department of public safety if the
41 division receives credible evidence that a person who possesses a valid
42 fingerprint clearance card either:

43 1. Is arrested for or charged with an offense listed in section
44 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

1 E. The chief justice, the superintendent of public instruction or a
2 department director may designate an alternate member to represent a member
3 who is appointed pursuant to subsection A by the chief justice, the
4 superintendent of public instruction or a department director, respectively.

5 Sec. 10. Section 41-619.53, Arizona Revised Statutes, as amended by
6 Laws 2008, chapter 173, section 3, is amended to read:

7 41-619.53. Board of fingerprinting; powers and duties;
8 personnel; liability

9 A. The board of fingerprinting shall:

10 1. Determine good cause exceptions pursuant to section 41-619.55. The
11 board may appoint a hearing officer to recommend that an applicant be granted
12 or denied a good cause exception after the hearing officer conducts an
13 expedited review or a good cause exception hearing.

14 2. Adopt rules to implement this article, including rules to establish
15 good cause exceptions for the issuance of fingerprint clearance cards
16 pursuant to ~~section~~ SECTIONS 41-1758.03 AND 41-1758.07. This rule making is
17 exempt from the requirements of chapter 6 of this title.

18 3. Administer and enforce this article and rules adopted pursuant to
19 this article.

20 4. Furnish a copy of its rules, on request, to all applicants who
21 petition the board for a good cause exception pursuant to section 41-1758.03
22 OR 41-1758.07 and, on request, to licensees, contract providers and state
23 agencies.

24 5. Establish fees.

25 B. In order to grant a good cause exception, a majority plus an
26 additional member, of the members present, must vote to approve the
27 application. If the board grants a good cause exception, the board shall
28 request in writing that the department of public safety issue a card to the
29 applicant.

30 C. The board may employ clerical, professional and technical personnel
31 subject to fee monies that are collected and to the budget that is approved
32 by the board members and shall prescribe personnel duties and determine
33 personnel compensation. Personnel employed by the board must have a valid
34 fingerprint clearance card issued pursuant to ~~chapter 12, article 3.1 of this~~
35 ~~title~~ SECTION 41-1758.07. If the applicant is denied a fingerprint clearance
36 card, in order to be employed by the board, the board must grant a good cause
37 exception pursuant to this article by a unanimous vote.

38 D. In making any recommendation to the board to grant or deny a good
39 cause exception, the hearing officer shall consider all of the reasons and
40 criteria prescribed in section 41-619.55, subsection E.

41 E. Members and employees of the board are not liable for acts done or
42 actions taken by any board member or employee if the members or employees act
43 in good faith following the requirements of this article.

1 41-1758.03, subsection B OR SECTION 41-1758.07, SUBSECTION B or that the
2 person is successfully rehabilitated and is not a recidivist. Before
3 granting a good cause exception under an expedited review, the board or its
4 hearing officer shall consider all of the criteria listed in subsection E of
5 this section.

6 D. The following persons shall be present during good cause exception
7 hearings:

8 1. The board or its hearing officer.

9 2. The person who requested the good cause exception hearing. The
10 person may be accompanied by a representative at the hearing.

11 E. The board or its hearing officer may grant a good cause exception
12 at a hearing if the person shows to the board's or its hearing officer's
13 satisfaction that the person is not awaiting trial on or has not been
14 convicted of committing any of the offenses listed in section 41-1758.03,
15 subsection B OR SECTION 41-1758.07, SUBSECTION B or that the person is
16 successfully rehabilitated and is not a recidivist. The board or its hearing
17 officer shall grant or deny a good cause exception within eighty days after
18 the good cause exception hearing. Before granting a good cause exception at
19 a hearing the board or its hearing officer shall consider all of the
20 following in accordance with board rule:

21 1. The extent of the person's criminal record.

22 2. The length of time that has elapsed since the offense was
23 committed.

24 3. The nature of the offense.

25 4. Any applicable mitigating circumstances.

26 5. The degree to which the person participated in the offense.

27 6. The extent of the person's rehabilitation, including:

28 (a) Completion of probation, parole or community supervision.

29 (b) Whether the person paid restitution or other compensation for the
30 offense.

31 (c) Evidence of positive action to change criminal behavior, such as
32 completion of a drug treatment program or counseling.

33 (d) Personal references attesting to the person's rehabilitation.

34 F. If the board or its hearing officer grants a good cause exception
35 to a person, the board shall request in writing that the department of public
36 safety issue a fingerprint clearance card to the person.

37 G. The board's staff, under the direction of the executive director of
38 the board, shall review reports it receives of the arrest, charging or
39 conviction of a person for offenses listed in ~~section~~ SECTIONS 41-1758.03 AND
40 41-1758.07 who previously received a fingerprint clearance card. Except as
41 provided by subsection J of this section, the executive director shall report
42 any arrest, charge or conviction of a prohibited crime to the state agencies
43 listed on the applicant's fingerprint clearance card application.

1 H. The board may request in writing that the department of public
2 safety revoke a person's fingerprint clearance card pursuant to section
3 41-1758.04 if the person received a fingerprint clearance card and the person
4 is subsequently convicted of an offense listed in section 41-1758.03,
5 subsection B or C **OR SECTION 41-1758.07, SUBSECTION B OR C.**

6 I. Pending the outcome of a good cause exception determination, the
7 board or its hearing officer may issue interim approval in accordance with
8 board rule to continue working to a good cause exception applicant.

9 J. If the board's staff, under the direction of the executive
10 director, receives a report of an arrest, charging or conviction of a
11 prohibited crime for a person who previously received a fingerprint clearance
12 card pursuant to section 15-1881, the executive director shall not report
13 this information to the state agency that is listed on the applicant's
14 fingerprint clearance card application but shall notify the person issued the
15 fingerprint clearance card of the report.

16 K. The board is exempt from title 41, chapter 6, article 10.

17 Sec. 13. Section 41-1758.01, Arizona Revised Statutes, is amended to
18 read:

19 **41-1758.01. Fingerprinting division; duties**

20 The fingerprinting division is established in the department of public
21 safety and shall:

22 1. Conduct fingerprint background checks for persons and applicants
23 who are seeking employment with licensees, contract providers and state
24 agencies or seeking employment or educational opportunities with agencies
25 that require fingerprint background checks pursuant to sections 8-105, 8-322,
26 8-509, 8-802, 15-183, 15-534, 15-1330, 15-1881, 26-102, 36-411, 36-425.03,
27 36-446.04, 36-594.01, 36-594.02, 36-882, 36-883.02, 36-897.01, 36-897.03,
28 36-3008, 41-1964, 41-1967.01, 41-1968, 41-1969 and 41-2814, section 46-141,
29 subsection A and section 46-321.

30 2. Issue fingerprint clearance cards. On issuance, a fingerprint
31 clearance card becomes the personal property of the cardholder and the
32 cardholder shall retain possession of the fingerprint clearance card.

33 3. On submission of an application for a fingerprint clearance card,
34 collect the fees established by the board of fingerprinting pursuant to
35 section 41-619.53 and deposit, pursuant to sections 35-146 and 35-147, the
36 monies collected in the board of fingerprinting fund.

37 4. Inform in writing each person who submits fingerprints for a
38 fingerprint background check of the person's right to petition the board of
39 fingerprinting for a good cause exception pursuant to ~~section~~ **SECTIONS**
40 **41-1758.03 AND 41-1758.07.**

41 5. Administer and enforce this article.

1 Sec. 14. Section 41-1758.03, Arizona Revised Statutes, is amended to
2 read:

3 41-1758.03. Fingerprint clearance cards; issuance; immunity

4 A. On receiving the state and federal criminal history record of a
5 person, the division shall compare the record with the list of criminal
6 offenses that preclude the person from receiving a fingerprint clearance
7 card. If the person's criminal history record does not contain any of the
8 offenses listed in subsections B and C of this section, the division shall
9 issue the person a fingerprint clearance card.

10 B. A person who is subject to registration as a sex offender in this
11 state or any other jurisdiction or who is awaiting trial on or who has been
12 convicted of committing or attempting, soliciting, facilitating or conspiring
13 to commit one or more of the following offenses in this state or the same or
14 similar offenses in another state or jurisdiction is precluded from receiving
15 a fingerprint clearance card:

- 16 1. Sexual abuse of a vulnerable adult.
- 17 2. Incest.
- 18 3. First or second degree murder.
- 19 4. Sexual assault.
- 20 5. Sexual exploitation of a minor.
- 21 6. Sexual exploitation of a vulnerable adult.
- 22 7. Commercial sexual exploitation of a minor.
- 23 8. Commercial sexual exploitation of a vulnerable adult.
- 24 9. Child prostitution as prescribed in section 13-3212.
- 25 10. Child abuse.
- 26 11. Abuse of a vulnerable adult.
- 27 12. Sexual conduct with a minor.
- 28 13. Molestation of a child.
- 29 14. Molestation of a vulnerable adult.
- 30 15. A dangerous crime against children as defined in section 13-604.01.
- 31 16. Exploitation of minors involving drug offenses.
- 32 17. Taking a child for the purposes of prostitution as prescribed in
33 section 13-3206.
- 34 18. Neglect or abuse of a vulnerable adult.
- 35 19. Sex trafficking.
- 36 20. Sexual abuse.
- 37 21. Production, publication, sale, possession and presentation of
38 obscene items as prescribed in section 13-3502.
- 39 22. Furnishing harmful items to minors as prescribed in section
40 13-3506.
- 41 23. Furnishing harmful items to minors by internet activity as
42 prescribed in section 13-3506.01.
- 43 24. Obscene or indecent telephone communications to minors for
44 commercial purposes as prescribed in section 13-3512.
- 45 25. Luring a minor for sexual exploitation.

- 1 26. Enticement of persons for purposes of prostitution.
- 2 27. Procurement by false pretenses of person for purposes of
- 3 prostitution.
- 4 28. Procuring or placing persons in a house of prostitution.
- 5 29. Receiving earnings of a prostitute.
- 6 30. Causing one's spouse to become a prostitute.
- 7 31. Detention of persons in a house of prostitution for debt.
- 8 32. Keeping or residing in a house of prostitution or employment in
- 9 prostitution.
- 10 33. Pandering.
- 11 34. Transporting persons for the purpose of prostitution, polygamy and
- 12 concubinage.
- 13 35. Portraying adult as a minor as prescribed in section 13-3555.
- 14 36. Admitting minors to public displays of sexual conduct as prescribed
- 15 in section 13-3558.
- 16 37. UNLAWFUL SALE OR PURCHASE OF CHILDREN.
- 17 38. CHILD BIGAMY.
- 18 C. A person who is awaiting trial on or who has been convicted of
- 19 committing or attempting, soliciting, facilitating or conspiring to commit
- 20 one or more of the following offenses in this state or the same or similar
- 21 offenses in another state or jurisdiction is precluded from receiving a
- 22 fingerprint clearance card, except that the person may petition the board of
- 23 fingerprinting for a good cause exception pursuant to section 41-619.55:
- 24 1. Manslaughter.
- 25 2. Endangerment.
- 26 3. Threatening or intimidating.
- 27 4. Assault.
- 28 5. Unlawfully administering intoxicating liquors, narcotic drugs or
- 29 dangerous drugs.
- 30 6. Assault by vicious animals.
- 31 7. Drive by shooting.
- 32 8. Assaults on officers or fire fighters.
- 33 9. Discharging a firearm at a structure.
- 34 10. Indecent exposure.
- 35 11. Public sexual indecency.
- 36 12. Aggravated criminal damage.
- 37 13. Theft.
- 38 14. Theft by extortion.
- 39 15. Shoplifting.
- 40 16. Forgery.
- 41 17. Criminal possession of a forgery device.
- 42 18. Obtaining a signature by deception.
- 43 19. Criminal impersonation.
- 44 20. Theft of a credit card or obtaining a credit card by fraudulent
- 45 means.

- 1 21. Receipt of anything of value obtained by fraudulent use of a credit
2 card.
- 3 22. Forgery of a credit card.
- 4 23. Fraudulent use of a credit card.
- 5 24. Possession of any machinery, plate or other contrivance or
6 incomplete credit card.
- 7 25. False statement as to financial condition or identity to obtain a
8 credit card.
- 9 26. Fraud by persons authorized to provide goods or services.
- 10 27. Credit card transaction record theft.
- 11 28. Misconduct involving weapons.
- 12 29. Misconduct involving explosives.
- 13 30. Depositing explosives.
- 14 31. Misconduct involving simulated explosive devices.
- 15 32. Concealed weapon violation.
- 16 33. Possession and sale of peyote.
- 17 34. Possession and sale of a vapor-releasing substance containing a
18 toxic substance.
- 19 35. Sale of precursor chemicals.
- 20 36. Possession, use or sale of marijuana, dangerous drugs or narcotic
21 drugs.
- 22 37. Manufacture or distribution of an imitation controlled substance.
- 23 38. Manufacture or distribution of an imitation prescription-only drug.
- 24 39. Manufacture or distribution of an imitation over-the-counter drug.
- 25 40. Possession or possession with intent to use an imitation controlled
26 substance.
- 27 41. Possession or possession with intent to use an imitation
28 prescription-only drug.
- 29 42. Possession or possession with intent to use an imitation
30 over-the-counter drug.
- 31 43. Manufacture of certain substances and drugs by certain means.
- 32 44. Adding poison or other harmful substance to food, drink or
33 medicine.
- 34 45. A criminal offense involving criminal trespass and burglary under
35 title 13, chapter 15.
- 36 46. A criminal offense under title 13, chapter 23.
- 37 47. Child neglect.
- 38 48. Misdemeanor offenses involving contributing to the delinquency of a
39 minor.
- 40 49. Offenses involving domestic violence.
- 41 50. Arson.
- 42 51. Kidnapping.
- 43 52. Felony offenses involving sale, distribution or transportation of,
44 offer to sell, transport or distribute or conspiracy to sell, transport or
45 distribute marijuana, dangerous drugs or narcotic drugs.

- 1 53. Robbery.
2 54. Aggravated assault.
3 55. Felony offenses involving contributing to the delinquency of a
4 minor.
5 56. Negligent homicide.
6 57. Criminal damage.
7 58. Misappropriation of charter school monies as prescribed in section
8 13-1818.
9 59. Taking identity of another person or entity.
10 60. Aggravated taking identity of another person or entity.
11 61. Trafficking in the identity of another person or entity.
12 62. Cruelty to animals.
13 63. Prostitution.
14 64. Sale or distribution of material harmful to minors through vending
15 machines as prescribed in section 13-3513.
16 65. Welfare fraud.
17 D. A person who is awaiting trial on or who has been convicted of
18 committing or attempting or conspiring to commit a violation of section
19 28-1381, 28-1382 or 28-1383 in this state or the same or similar offense in
20 another state or jurisdiction within five years from the date of applying for
21 a fingerprint clearance card is precluded from driving any vehicle to
22 transport employees or clients of the employing agency as part of the
23 person's employment. The division shall place a notation on the fingerprint
24 clearance card that indicates this driving restriction. This subsection does
25 not preclude a person from driving a vehicle alone as part of the person's
26 employment.
27 E. Notwithstanding subsection C of this section, on receiving written
28 notice from the board of fingerprinting that a good cause exception was
29 granted pursuant to section 41-619.55, the division shall issue a fingerprint
30 clearance card to the person.
31 F. If the division denies a person's application for a fingerprint
32 clearance card pursuant to subsection C of this section and a good cause
33 exception is requested pursuant to section 41-619.55, the division shall
34 release, on request by the board of fingerprinting, the person's criminal
35 history record to the board of fingerprinting.
36 G. A person shall be granted a fingerprint clearance card if either of
37 the following applies:
38 1. An agency granted a good cause exception before August 16, 1999 and
39 no new precluding offense is identified. The fingerprint clearance card
40 shall specify only the program that granted the good cause exception. On the
41 request of the applicant, the agency that granted the prior good cause
42 exception shall notify the division in writing of the date on which the prior
43 good cause exception was granted and the date of the conviction and the name
44 of the offense for which the good cause exception was granted.

1 2. The board granted a good cause exception and no new precluding
2 offense is identified. The fingerprint clearance card shall specify the
3 programs for which the board granted the good cause exception.

4 H. The licensee or contract provider shall assume the costs of
5 fingerprint checks and may charge these costs to persons required to be
6 fingerprinted.

7 I. A person who is under eighteen years of age or who is at least
8 ninety-nine years of age is exempt from the fingerprint clearance card
9 requirements of this section. At all times the person shall be under the
10 direct visual supervision of personnel who have valid fingerprint clearance
11 cards.

12 J. The division may conduct periodic state criminal history records
13 checks for the purpose of updating the clearance status of current
14 fingerprint clearance card holders and may notify the board of fingerprinting
15 and the agency employing the person of the results of the records check.

16 K. The division shall revoke a person's fingerprint clearance card on
17 receipt of a written request for revocation from the board of fingerprinting
18 pursuant to section 41-619.55.

19 L. The division shall not issue a fingerprint clearance card to a
20 person if the division cannot determine, within thirty business days after
21 receipt of the person's state and federal criminal history record
22 information, whether the person is awaiting trial on or has been convicted of
23 committing any of the offenses listed in subsection B or C of this section.
24 If the division is unable to make the determination required by this section
25 and does not issue a fingerprint clearance card to a person, the person may
26 request a good cause exception pursuant to section 41-619.55.

27 M. Except as provided in subsection N of this section, if after
28 conducting a state and federal criminal history record check the division
29 determines that it is not authorized to issue a fingerprint clearance card to
30 a person, the division shall notify the agency that licenses or employs the
31 person that the division is not authorized to issue a fingerprint clearance
32 card. This notice shall include the criminal history information on which
33 the denial was based. This criminal history information is subject to
34 dissemination restrictions pursuant to section 41-1750 and Public Law 92-544.

35 N. If, after conducting a state and federal criminal history record
36 check on a person who requests a fingerprint clearance card pursuant to
37 section 15-1881, the division determines that it is not authorized to issue a
38 fingerprint clearance card to the person, the division shall not notify the
39 agency. The division shall notify the person who requested the card that the
40 division is not authorized to issue a fingerprint clearance card.

41 O. The division is not liable for damages resulting from:

42 1. The issuance of a fingerprint clearance card to a person who is
43 later found to have been ineligible to receive a fingerprint clearance card
44 at the time the card was issued.

- 1 1. SEXUAL ABUSE OF A VULNERABLE ADULT.
- 2 2. INCEST.
- 3 3. HOMICIDE, INCLUDING FIRST OR SECOND DEGREE MURDER, MANSLAUGHTER AND
- 4 NEGLIGENT HOMICIDE.
- 5 4. SEXUAL ASSAULT.
- 6 5. SEXUAL EXPLOITATION OF A MINOR.
- 7 6. SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 8 7. COMMERCIAL SEXUAL EXPLOITATION OF A MINOR.
- 9 8. COMMERCIAL SEXUAL EXPLOITATION OF A VULNERABLE ADULT.
- 10 9. CHILD PROSTITUTION AS PRESCRIBED IN SECTION 13-3212.
- 11 10. CHILD ABUSE.
- 12 11. FELONY CHILD NEGLECT.
- 13 12. ABUSE OF A VULNERABLE ADULT.
- 14 13. SEXUAL CONDUCT WITH A MINOR.
- 15 14. MOLESTATION OF A CHILD.
- 16 15. MOLESTATION OF A VULNERABLE ADULT.
- 17 16. DANGEROUS CRIMES AGAINST CHILDREN AS DEFINED IN SECTION 13-604.01.
- 18 17. EXPLOITATION OF MINORS INVOLVING DRUG OFFENSES.
- 19 18. TAKING A CHILD FOR THE PURPOSES OF PROSTITUTION AS PRESCRIBED IN
- 20 SECTION 13-3206.
- 21 19. NEGLECT OR ABUSE OF A VULNERABLE ADULT.
- 22 20. SEX TRAFFICKING.
- 23 21. SEXUAL ABUSE.
- 24 22. PRODUCTION, PUBLICATION, SALE, POSSESSION AND PRESENTATION OF
- 25 OBSCENE ITEMS AS PRESCRIBED IN SECTION 13-3502.
- 26 23. FURNISHING HARMFUL ITEMS TO MINORS AS PRESCRIBED IN SECTION
- 27 13-3506.
- 28 24. FURNISHING HARMFUL ITEMS TO MINORS BY INTERNET ACTIVITY AS
- 29 PRESCRIBED IN SECTION 13-3506.01.
- 30 25. OBSCENE OR INDECENT TELEPHONE COMMUNICATIONS TO MINORS FOR
- 31 COMMERCIAL PURPOSES AS PRESCRIBED IN SECTION 13-3512.
- 32 26. LURING A MINOR FOR SEXUAL EXPLOITATION.
- 33 27. ENTICEMENT OF PERSONS FOR PURPOSES OF PROSTITUTION.
- 34 28. PROCUREMENT BY FALSE PRETENSES OF PERSON FOR PURPOSES OF
- 35 PROSTITUTION.
- 36 29. PROCURING OR PLACING PERSONS IN A HOUSE OF PROSTITUTION.
- 37 30. RECEIVING EARNINGS OF A PROSTITUTE.
- 38 31. CAUSING ONE'S SPOUSE TO BECOME A PROSTITUTE.
- 39 32. DETENTION OF PERSONS IN A HOUSE OF PROSTITUTION FOR DEBT.
- 40 33. KEEPING OR RESIDING IN A HOUSE OF PROSTITUTION OR EMPLOYMENT IN
- 41 PROSTITUTION.
- 42 34. PANDERING.
- 43 35. TRANSPORTING PERSONS FOR THE PURPOSE OF PROSTITUTION, POLYGAMY AND
- 44 CONCUBINAGE.
- 45 36. PORTRAYING ADULT AS A MINOR AS PRESCRIBED IN SECTION 13-3555.

1 37. ADMITTING MINORS TO PUBLIC DISPLAYS OF SEXUAL CONDUCT AS PRESCRIBED
2 IN SECTION 13-3558.

3 38. ANY FELONY OFFENSE INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
4 MINOR.

5 39. UNLAWFUL SALE OR PURCHASE OF CHILDREN.

6 40. CHILD BIGAMY.

7 41. ANY FELONY OFFENSE INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
8 SECTION 13-3601 EXCEPT FOR A FELONY OFFENSE ONLY INVOLVING CRIMINAL DAMAGE IN
9 AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS BUT LESS THAN TWO THOUSAND
10 DOLLARS IF THE OFFENSE WAS COMMITTED BEFORE THE EFFECTIVE DATE OF THIS
11 SECTION.

12 42. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
13 COMMITTED WITHIN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT
14 CLEARANCE CARD.

15 43. FELONY DRUG OR ALCOHOL RELATED OFFENSES IF COMMITTED WITHIN FIVE
16 YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.

17 44. FELONY INDECENT EXPOSURE.

18 45. FELONY PUBLIC SEXUAL INDECENCY.

19 46. TERRORISM.

20 47. ANY OFFENSE INVOLVING A VIOLENT CRIME AS DEFINED IN SECTION
21 13-604.04.

22 C. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
23 COMMITTING OR ATTEMPTING, SOLICITING, FACILITATING OR CONSPIRING TO COMMIT
24 ONE OR MORE OF THE FOLLOWING OFFENSES IN THIS STATE OR THE SAME OR SIMILAR
25 OFFENSES IN ANOTHER STATE OR JURISDICTION IS PRECLUDED FROM RECEIVING A
26 FINGERPRINT CLEARANCE CARD, EXCEPT THAT THE PERSON MAY PETITION THE BOARD OF
27 FINGERPRINTING FOR A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55:

28 1. ANY MISDEMEANOR OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12.

29 2. MISDEMEANOR INDECENT EXPOSURE.

30 3. MISDEMEANOR PUBLIC SEXUAL INDECENCY.

31 4. AGGRAVATED CRIMINAL DAMAGE.

32 5. THEFT.

33 6. THEFT BY EXTORTION.

34 7. SHOPLIFTING.

35 8. FORGERY.

36 9. CRIMINAL POSSESSION OF A FORGERY DEVICE.

37 10. OBTAINING A SIGNATURE BY DECEPTION.

38 11. CRIMINAL IMPERSONATION.

39 12. THEFT OF A CREDIT CARD OR OBTAINING A CREDIT CARD BY FRAUDULENT
40 MEANS.

41 13. RECEIPT OF ANYTHING OF VALUE OBTAINED BY FRAUDULENT USE OF A CREDIT
42 CARD.

43 14. FORGERY OF A CREDIT CARD.

44 15. FRAUDULENT USE OF A CREDIT CARD.

- 1 16. POSSESSION OF ANY MACHINERY, PLATE OR OTHER CONTRIVANCE OR
- 2 INCOMPLETE CREDIT CARD.
- 3 17. FALSE STATEMENT AS TO FINANCIAL CONDITION OR IDENTITY TO OBTAIN A
- 4 CREDIT CARD.
- 5 18. FRAUD BY PERSONS AUTHORIZED TO PROVIDE GOODS OR SERVICES.
- 6 19. CREDIT CARD TRANSACTION RECORD THEFT.
- 7 20. MISCONDUCT INVOLVING WEAPONS.
- 8 21. MISCONDUCT INVOLVING EXPLOSIVES.
- 9 22. DEPOSITING EXPLOSIVES.
- 10 23. MISCONDUCT INVOLVING SIMULATED EXPLOSIVE DEVICES.
- 11 24. CONCEALED WEAPON VIOLATION.
- 12 25. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF PEYOTE.
- 13 26. FELONY POSSESSION AND FELONY SALE OF PEYOTE IF COMMITTED MORE THAN
- 14 FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 15 27. MISDEMEANOR POSSESSION AND MISDEMEANOR SALE OF A VAPOR-RELEASING
- 16 SUBSTANCE CONTAINING A TOXIC SUBSTANCE.
- 17 28. FELONY POSSESSION AND FELONY SALE OF A VAPOR-RELEASING SUBSTANCE
- 18 CONTAINING A TOXIC SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
- 19 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 20 29. MISDEMEANOR SALE OF PRECURSOR CHEMICALS.
- 21 30. FELONY SALE OF PRECURSOR CHEMICALS IF COMMITTED MORE THAN FIVE YEARS
- 22 BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 23 31. MISDEMEANOR POSSESSION, MISDEMEANOR USE OR MISDEMEANOR SALE OF
- 24 MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS.
- 25 32. FELONY POSSESSION, FELONY USE OR FELONY SALE OF MARIJUANA,
- 26 DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE THAN FIVE YEARS BEFORE
- 27 THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 28 33. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 29 CONTROLLED SUBSTANCE.
- 30 34. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 31 CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 32 APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 33 35. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 34 PRESCRIPTION-ONLY DRUG.
- 35 36. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 36 PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 37 APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 38 37. MISDEMEANOR MANUFACTURE OR MISDEMEANOR DISTRIBUTION OF AN IMITATION
- 39 OVER-THE-COUNTER DRUG.
- 40 38. FELONY MANUFACTURE OR FELONY DISTRIBUTION OF AN IMITATION
- 41 OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF
- 42 APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 43 39. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
- 44 AN IMITATION CONTROLLED SUBSTANCE.

- 1 40. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
2 IMITATION CONTROLLED SUBSTANCE IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
3 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 4 41. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
5 AN IMITATION PRESCRIPTION-ONLY DRUG.
- 6 42. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
7 IMITATION PRESCRIPTION-ONLY DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
8 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 9 43. MISDEMEANOR POSSESSION OR MISDEMEANOR POSSESSION WITH INTENT TO USE
10 AN IMITATION OVER-THE-COUNTER DRUG.
- 11 44. FELONY POSSESSION OR FELONY POSSESSION WITH INTENT TO USE AN
12 IMITATION OVER-THE-COUNTER DRUG IF COMMITTED MORE THAN FIVE YEARS BEFORE THE
13 DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 14 45. MISDEMEANOR MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN
15 MEANS.
- 16 46. FELONY MANUFACTURE OF CERTAIN SUBSTANCES AND DRUGS BY CERTAIN MEANS
17 IF COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A
18 FINGERPRINT CLEARANCE CARD.
- 19 47. ADDING POISON OR OTHER HARMFUL SUBSTANCE TO FOOD, DRINK OR
20 MEDICINE.
- 21 48. A CRIMINAL OFFENSE INVOLVING CRIMINAL TRESPASS AND BURGLARY UNDER
22 TITLE 13, CHAPTER 15.
- 23 49. A CRIMINAL OFFENSE UNDER TITLE 13, CHAPTER 23, EXCEPT TERRORISM.
- 24 50. MISDEMEANOR OFFENSES INVOLVING CHILD NEGLECT.
- 25 51. MISDEMEANOR OFFENSES INVOLVING CONTRIBUTING TO THE DELINQUENCY OF A
26 MINOR.
- 27 52. MISDEMEANOR OFFENSES INVOLVING DOMESTIC VIOLENCE AS DEFINED IN
28 SECTION 13-3601.
- 29 53. FELONY OFFENSES INVOLVING DOMESTIC VIOLENCE IF THE OFFENSE ONLY
30 INVOLVED CRIMINAL DAMAGE IN AN AMOUNT OF MORE THAN TWO HUNDRED FIFTY DOLLARS
31 BUT LESS THAN TWO THOUSAND DOLLARS AND THE OFFENSE WAS COMMITTED BEFORE THE
32 EFFECTIVE DATE OF THIS SECTION.
- 33 54. ARSON.
- 34 55. FELONY OFFENSES INVOLVING SALE, DISTRIBUTION OR TRANSPORTATION OF,
35 OFFER TO SELL, TRANSPORT OR DISTRIBUTE OR CONSPIRACY TO SELL, TRANSPORT OR
36 DISTRIBUTE MARIJUANA, DANGEROUS DRUGS OR NARCOTIC DRUGS IF COMMITTED MORE
37 THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT CLEARANCE CARD.
- 38 56. CRIMINAL DAMAGE.
- 39 57. MISAPPROPRIATION OF CHARTER SCHOOL MONIES AS PRESCRIBED IN SECTION
40 13-1818.
- 41 58. TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
- 42 59. AGGRAVATED TAKING IDENTITY OF ANOTHER PERSON OR ENTITY.
- 43 60. TRAFFICKING IN THE IDENTITY OF ANOTHER PERSON OR ENTITY.
- 44 61. CRUELTY TO ANIMALS.
- 45 62. PROSTITUTION, AS PRESCRIBED IN SECTION 13-3214.

1 63. SALE OR DISTRIBUTION OF MATERIAL HARMFUL TO MINORS THROUGH VENDING
2 MACHINES AS PRESCRIBED IN SECTION 13-3513.

3 64. WELFARE FRAUD.

4 65. ANY FELONY OFFENSE IN VIOLATION OF TITLE 13, CHAPTER 12 IF
5 COMMITTED MORE THAN FIVE YEARS BEFORE THE DATE OF APPLYING FOR A FINGERPRINT
6 CLEARANCE CARD.

7 66. KIDNAPPING.

8 67. ROBBERY, AGGRAVATED ROBBERY OR ARMED ROBBERY.

9 D. A PERSON WHO IS AWAITING TRIAL ON OR WHO HAS BEEN CONVICTED OF
10 COMMITTING OR ATTEMPTING OR CONSPIRING TO COMMIT A MISDEMEANOR VIOLATION OF
11 SECTION 28-1381, 28-1382 OR 28-1383 IN THIS STATE OR THE SAME OR SIMILAR
12 OFFENSE IN ANOTHER STATE OR JURISDICTION WITHIN FIVE YEARS AFTER THE DATE OF
13 APPLYING FOR A FINGERPRINT CLEARANCE CARD IS PRECLUDED FROM DRIVING ANY
14 VEHICLE TO TRANSPORT EMPLOYEES OR CLIENTS OF THE EMPLOYING AGENCY AS PART OF
15 THE PERSON'S EMPLOYMENT. THE DIVISION SHALL PLACE A NOTATION ON THE
16 FINGERPRINT CLEARANCE CARD THAT INDICATES THIS DRIVING RESTRICTION. THIS
17 SUBSECTION DOES NOT PRECLUDE A PERSON FROM DRIVING A VEHICLE ALONE AS PART OF
18 THE PERSON'S EMPLOYMENT.

19 E. NOTWITHSTANDING SUBSECTION C OF THIS SECTION, ON RECEIVING WRITTEN
20 NOTICE FROM THE BOARD OF FINGERPRINTING THAT A GOOD CAUSE EXCEPTION WAS
21 GRANTED PURSUANT TO SECTION 41-619.55, THE FINGERPRINTING DIVISION SHALL
22 ISSUE A FINGERPRINT CLEARANCE CARD TO THE APPLICANT.

23 F. IF THE FINGERPRINTING DIVISION DENIES A PERSON'S APPLICATION FOR A
24 FINGERPRINT CLEARANCE CARD PURSUANT TO SUBSECTION C OF THIS SECTION AND A
25 GOOD CAUSE EXCEPTION IS REQUESTED PURSUANT TO SECTION 41-619.55, THE
26 FINGERPRINTING DIVISION SHALL RELEASE, ON REQUEST BY THE BOARD OF
27 FINGERPRINTING, THE PERSON'S CRIMINAL HISTORY RECORD TO THE BOARD OF
28 FINGERPRINTING.

29 G. A PERSON SHALL BE GRANTED A FINGERPRINT CLEARANCE CARD PURSUANT TO
30 THIS SECTION IF EITHER OF THE FOLLOWING APPLIES:

31 1. AN AGENCY GRANTED A GOOD CAUSE EXCEPTION BEFORE AUGUST 16, 1999 AND
32 NO NEW PRECLUDING OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD
33 SHALL SPECIFY ONLY THE PROGRAM THAT GRANTED THE GOOD CAUSE EXCEPTION. ON THE
34 REQUEST OF THE APPLICANT, THE AGENCY THAT GRANTED THE PRIOR GOOD CAUSE
35 EXCEPTION SHALL NOTIFY THE FINGERPRINTING DIVISION IN WRITING OF THE DATE ON
36 WHICH THE PRIOR GOOD CAUSE EXCEPTION WAS GRANTED AND THE DATE OF THE
37 CONVICTION AND THE NAME OF THE OFFENSE FOR WHICH THE GOOD CAUSE EXCEPTION WAS
38 GRANTED.

39 2. THE BOARD GRANTED A GOOD CAUSE EXCEPTION AND NO NEW PRECLUDING
40 OFFENSE IS IDENTIFIED. THE FINGERPRINT CLEARANCE CARD SHALL SPECIFY THE
41 PROGRAMS FOR WHICH THE BOARD GRANTED THE GOOD CAUSE EXCEPTION.

42 H. THE LICENSEE OR CONTRACT PROVIDER SHALL ASSUME THE COSTS OF
43 FINGERPRINT CHECKS CONDUCTED PURSUANT TO THIS SECTION AND MAY CHARGE THESE
44 COSTS TO PERSONS REQUIRED TO BE FINGERPRINTED.

1 I. A PERSON WHO IS UNDER EIGHTEEN YEARS OF AGE OR WHO IS AT LEAST
2 NINETY-NINE YEARS OF AGE IS EXEMPT FROM THE FINGERPRINT CLEARANCE CARD
3 REQUIREMENTS OF THIS SECTION. AT ALL TIMES THE PERSON SHALL BE UNDER THE
4 DIRECT VISUAL SUPERVISION OF PERSONNEL WHO HAVE VALID FINGERPRINT CLEARANCE
5 CARDS.

6 J. THE FINGERPRINTING DIVISION MAY CONDUCT PERIODIC STATE CRIMINAL
7 HISTORY RECORDS CHECKS FOR THE PURPOSE OF UPDATING THE CLEARANCE STATUS OF
8 CURRENT FINGERPRINT CLEARANCE CARD HOLDERS PURSUANT TO THIS SECTION AND MAY
9 NOTIFY THE BOARD OF FINGERPRINTING AND THE AGENCY OF THE RESULTS OF THE
10 RECORDS CHECK.

11 K. THE FINGERPRINTING DIVISION SHALL REVOKE A PERSON'S FINGERPRINT
12 CLEARANCE CARD ON RECEIPT OF A WRITTEN REQUEST FOR REVOCATION FROM THE BOARD
13 OF FINGERPRINTING PURSUANT TO SECTION 41-619.55.

14 L. THE FINGERPRINTING DIVISION SHALL NOT ISSUE A FINGERPRINT CLEARANCE
15 CARD TO AN APPLICANT IF THE DIVISION CANNOT DETERMINE, WITHIN THIRTY BUSINESS
16 DAYS AFTER RECEIPT OF THE PERSON'S STATE AND FEDERAL CRIMINAL HISTORY RECORD
17 INFORMATION, WHETHER THE PERSON IS AWAITING TRIAL ON OR HAS BEEN CONVICTED OF
18 COMMITTING ANY OF THE OFFENSES LISTED IN SUBSECTION B OR C OF THIS SECTION.
19 IF THE DIVISION IS UNABLE TO MAKE THE DETERMINATION REQUIRED BY THIS SECTION
20 AND DOES NOT ISSUE A FINGERPRINT CLEARANCE CARD TO A PERSON, THE PERSON MAY
21 REQUEST A GOOD CAUSE EXCEPTION PURSUANT TO SECTION 41-619.55.

22 M. IF AFTER CONDUCTING A STATE AND FEDERAL CRIMINAL HISTORY RECORDS
23 CHECK THE FINGERPRINTING DIVISION DETERMINES THAT IT IS NOT AUTHORIZED TO
24 ISSUE A FINGERPRINT CLEARANCE CARD TO AN APPLICANT, THE DIVISION SHALL NOTIFY
25 THE AGENCY THAT THE FINGERPRINTING DIVISION IS NOT AUTHORIZED TO ISSUE A
26 FINGERPRINT CLEARANCE CARD. THIS NOTICE SHALL INCLUDE THE CRIMINAL HISTORY
27 INFORMATION ON WHICH THE DENIAL WAS BASED. THIS CRIMINAL HISTORY INFORMATION
28 IS SUBJECT TO DISSEMINATION RESTRICTIONS PURSUANT TO SECTION 41-1750 AND
29 PUBLIC LAW 92-544.

30 N. THE FINGERPRINTING DIVISION IS NOT LIABLE FOR DAMAGES RESULTING
31 FROM:

32 1. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
33 LATER FOUND TO HAVE BEEN INELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD
34 AT THE TIME THE CARD WAS ISSUED.

35 2. THE DENIAL OF A FINGERPRINT CLEARANCE CARD TO AN APPLICANT WHO IS
36 LATER FOUND TO HAVE BEEN ELIGIBLE TO RECEIVE A FINGERPRINT CLEARANCE CARD AT
37 THE TIME ISSUANCE OF THE CARD WAS DENIED.

38 O. NOTWITHSTANDING ANY LAW TO THE CONTRARY, AN INDIVIDUAL MAY APPLY
39 FOR AND RECEIVE A LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION
40 TO SATISFY A REQUIREMENT THAT THE PERSON HAVE A VALID FINGERPRINT CLEARANCE
41 CARD ISSUED PURSUANT TO SECTION 41-1758.03.

42 P. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXCEPT AS PRESCRIBED
43 PURSUANT TO SUBSECTION R OF THIS SECTION, AN INDIVIDUAL WHO RECEIVES A
44 LEVEL I FINGERPRINT CLEARANCE CARD PURSUANT TO THIS SECTION ALSO SATISFIES A

1 REQUIREMENT THAT THE INDIVIDUAL HAVE A VALID FINGERPRINT CLEARANCE CARD
2 ISSUED PURSUANT TO SECTION 41-1758.03.

3 Q. AN AGENCY MAY REQUIRE ITS EMPLOYEES, CONTRACTORS AND VENDORS TO
4 HAVE A FINGERPRINT CLEARANCE CARD ISSUED PURSUANT TO THIS SECTION INSTEAD OF
5 SECTION 41-1758.03.

6 R. UNLESS A CARDHOLDER COMMITS AN OFFENSE LISTED IN SUBSECTION B OR C
7 OF THIS SECTION AFTER THE EFFECTIVE DATE OF THIS SECTION, A FINGERPRINT
8 CLEARANCE CARD ISSUED PURSUANT TO SECTION 41-1758.03 BEFORE THE EFFECTIVE
9 DATE OF THIS SECTION AND ITS RENEWALS ARE VALID FOR ALL REQUIREMENTS FOR A
10 FINGERPRINT CLEARANCE CARD EXCEPT THOSE RELATING TO THE REQUIREMENTS OF
11 SECTION 8-105 OR 8-509. A FINGERPRINT CLEARANCE CARD ISSUED BEFORE THE
12 EFFECTIVE DATE OF THIS SECTION TO MEET THE REQUIREMENTS OF SECTION 8-105 OR
13 8-509 AND ITS RENEWALS ARE VALID AFTER THE EFFECTIVE DATE OF THIS SECTION TO
14 MEET ALL REQUIREMENTS FOR A FINGERPRINT CLEARANCE CARD, INCLUDING THE
15 REQUIREMENTS OF SECTION 8-105 OR 8-509 IF THE CARDHOLDER HAS BEEN CERTIFIED
16 BY THE COURT TO ADOPT OR HAS BEEN ISSUED A FOSTER HOME LICENSE BEFORE THE
17 EFFECTIVE DATE OF THIS SECTION.

18 S. THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD DOES NOT ENTITLE A
19 PERSON TO EMPLOYMENT.

20 T. FOR THE PURPOSES OF THIS SECTION:

21 1. "PERSON" MEANS A PERSON WHO IS FINGERPRINTED PURSUANT TO:

22 (a) SECTION 8-105, 8-509, 8-802, 36-594.01, 36-594.02, 41-1964,
23 41-1967, 41-1967.01, 41-1968, 41-1969 OR 46-141.

24 (b) SUBSECTION O OR Q OF THIS SECTION.

25 2. "RENEWAL" MEANS THE ISSUANCE OF A FINGERPRINT CLEARANCE CARD TO AN
26 EXISTING FINGERPRINT CLEARANCE CARD HOLDER WHO APPLIES BEFORE THE PERSON'S
27 EXISTING FINGERPRINT CLEARANCE CARD EXPIRES.

28 Sec. 17. Section 41-1964, Arizona Revised Statutes, is amended to
29 read:

30 41-1964. Day care homes; child care personnel; fingerprints;
31 definition

32 A. Child care personnel shall have valid fingerprint clearance cards
33 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
34 or shall apply for a fingerprint clearance card no later than seven working
35 days from the date of certification by the department or within seven working
36 days after residing or working in the home of a child care home provider or
37 being designated as a backup provider.

38 B. Before certification or within seven working days after residing or
39 working in the home of a child care provider or being designated as a backup
40 provider, child care personnel shall certify on forms that are provided by
41 the department and notarized whether:

42 1. They are awaiting trial on or have been convicted of or admitted
43 committing any of the criminal offenses listed in section ~~41-1758.03~~
44 41-1758.07, subsections B and C in this state or similar offenses in another
45 state or jurisdiction.

1 2. They are parents or guardians of a child adjudicated to be a
2 dependent child as defined in section 8-201.

3 3. They have been denied a license to operate a facility for the care
4 of children for cause in this state or another state or had a license or
5 certificate to operate such a facility revoked.

6 C. The department shall make documented, good faith efforts to contact
7 previous employers of certified day care home personnel to obtain information
8 or recommendations that may be relevant to an individual's fitness for work
9 in a certified day care home.

10 D. The notarized forms are confidential.

11 E. The department of economic security shall notify the department of
12 public safety if the department of economic security receives credible
13 evidence that any child care personnel who possesses a valid fingerprint
14 clearance card either:

15 1. Is arrested for or charged with an offense listed in section
16 ~~41-1758.03~~ 41-1758.07, subsection B OR C.

17 2. Falsified information on the form required by subsection B of this
18 section.

19 F. For the purposes of this section, "child care personnel" means
20 child care home providers, in-home providers and noncertified relative
21 providers as defined in section 46-801 and designated backup providers and
22 all persons who are eighteen years of age or older and who work or reside in
23 the home of a child care home provider.

24 Sec. 18. Section 41-1967, Arizona Revised Statutes, is amended to
25 read:

26 41-1967. Child care resource and referral system; immunity

27 A. The department shall establish and maintain a statewide child care
28 resource and referral system, including a child care home provider registry,
29 through community-based organizations to:

30 1. Provide families with:

- 31 (a) Information on all types of child care.
- 32 (b) Referrals to child care providers and programs.
- 33 (c) Information about child care resources and services.
- 34 (d) Information about choosing child care.
- 35 (e) Information about registered child care home providers.

36 2. Assist child care providers and programs with:

- 37 (a) Information on training related to child care issues.
- 38 (b) Technical assistance that relates to initiating or providing child
39 care services.

40 (c) Parent referrals.

41 (d) Becoming registered as a child care home provider.

42 3. Coordinate with the community to:

- 43 (a) Develop statistics of the demand for and supply of child care.
- 44 (b) Maintain ongoing relationships with all local groups interested in
45 child care.

- 1 B. The child care resource and referral system shall:
- 2 1. Identify all available child care providers and programs through
- 3 coordination with public and private agencies.
- 4 2. Collect in a uniform method provider information for the referral
- 5 database that includes:
- 6 (a) The type of program.
- 7 (b) The hours of service.
- 8 (c) The ages of children served.
- 9 (d) Fees for service.
- 10 (e) The licensure, certification and registration status of providers.
- 11 (f) Other significant provider and program information.
- 12 3. Establish and maintain a referral process that responds to parental
- 13 need for information. The child care resource and referral system shall make
- 14 referrals to child care providers and programs that:
- 15 (a) Promote parental choice and meet the needs of families.
- 16 (b) Are included in the resource and referral database.
- 17 4. Collect in a uniform method family information for the referral
- 18 database that includes the:
- 19 (a) Number of calls and contacts.
- 20 (b) Ages of children in need of care.
- 21 (c) Days and times of care requested.
- 22 (d) Type of care requested.
- 23 (e) Special needs and requests made by the family.
- 24 (f) Reason that the care is needed.
- 25 5. Provide outreach services that include:
- 26 (a) Efforts to reach parents and providers in local communities.
- 27 (b) Involvement in the local communities.
- 28 (c) Publication of services through all available media sources,
- 29 agencies and other appropriate channels.
- 30 (d) Public awareness information to parents and providers about the
- 31 child care home provider registry and the benefits of using the registry or
- 32 becoming registered.
- 33 6. Provide technical assistance to existing and prospective child care
- 34 providers and programs that include:
- 35 (a) Information on all aspects of initiating new child care services
- 36 including child care regulations, zoning, program and budget development and
- 37 assistance in finding information from other sources.
- 38 (b) Educational information and resources that assist existing child
- 39 care providers and programs to better serve the children and parents in their
- 40 community.
- 41 (c) Local coordination of existing child care and child related
- 42 services.
- 43 7. Establish and maintain a child care home provider registry that
- 44 includes:

1 (a) Child care home providers that are registered pursuant to section
2 41-1967.01.

3 (b) A complaint tracking system that contains written complaints
4 concerning providers and written provider responses. The complaints and
5 responses are available to the public.

6 (c) A system for notifying a provider that is excluded or removed from
7 the registry that the provider may appeal directly to the entity making the
8 determination resulting in the exclusion or removal.

9 (d) Information provided by registered providers relating to the
10 services provided and child care environment.

11 C. The following child care providers are eligible to be considered
12 for inclusion in the child care resource and referral database, unless barred
13 by other provisions of law:

14 1. Child care providers licensed or certified by a government agency
15 ~~which~~ THAT is authorized by law to license, certify or approve child care
16 providers.

17 2. Child care home providers that are registered pursuant to section
18 41-1967.01. These providers shall submit and amend when necessary sworn,
19 written statements to the department or its designees, on forms approved by
20 the department, attesting that the provider is not subject to exclusion or
21 removal from the child care resource and referral database under any of the
22 grounds specified in subsection E of this section.

23 D. Child care providers identified in subsection C, paragraph 1 of
24 this section may be excluded or removed from the child care resource and
25 referral database whenever the provider's license or certification is
26 revoked, terminated or suspended, or when a child care facility is closed for
27 cause.

28 E. Child care home providers identified in subsection C, paragraph 2
29 of this section may be excluded or removed from the child care home provider
30 registry and the child care resource and referral database if:

31 1. The provider fails to obtain a fingerprint clearance card or the
32 provider's fingerprint clearance card is revoked or suspended.

33 2. The provider has been denied a license to operate a facility for
34 the care of children or had a license or certificate to operate a facility
35 revoked or has been removed for cause from participation in the child and
36 adult food program in this state or in any other state or jurisdiction.

37 3. The provider, the provider's employees or any person eighteen years
38 of age or older who resides in the provider's child care facility has been
39 convicted of or is awaiting trial on any of the criminal offenses listed in
40 section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar
41 criminal offenses in any other state or jurisdiction.

42 4. The provider, the provider's employees or any person who resides in
43 the provider's child care facility has been the subject of an investigation
44 where a report of child abuse or neglect has been substantiated by a child

1 protective services agency or a law enforcement agency in this state or in
2 any other state or jurisdiction.

3 5. The provider fails to maintain current training and certification
4 in first aid and infant and child cardiopulmonary resuscitation.

5 6. The provider fails to enclose a pool pursuant to section 36-1681,
6 subsections A, B and C.

7 7. The provider fails to separately store firearms and ammunition
8 under lock and key or combination lock.

9 F. This section and section 41-1967.01 do not create an affirmative
10 obligation on the part of any state agency or any child care resource and
11 referral agency to review, monitor or investigate child care providers and
12 programs.

13 G. Neither this state nor its officers or employees, acting within the
14 scope of their employment, are liable for any damage or injury caused by
15 their conduct pursuant to this section or section 41-1967.01, except for
16 gross negligence or conduct intended to cause injury.

17 H. Neither a child care resource and referral agency nor its officers
18 and employees, acting within the scope of their employment, are liable for
19 any damage or injury caused by their conduct pursuant to this section or
20 section 41-1967.01, except for gross negligence or conduct intended to cause
21 injury.

22 I. The department shall adopt rules that are consistent with the terms
23 of this section.

24 Sec. 19. Section 41-1967.01, Arizona Revised Statutes, is amended to
25 read:

26 41-1967.01. Child care home provider: registration:
27 fingerprints: definition

28 A. A child care home provider who receives compensation to care for
29 four or fewer children and who has not been certified by the department of
30 economic security pursuant to section 46-807 or licensed or certified by the
31 department of health services pursuant to section 36-883 or 36-897.01 shall
32 register with the department of economic security if the child care home
33 provider wishes to be listed with the child care resource and referral
34 system.

35 B. Each applicant for registration shall submit a full set of
36 fingerprints to the department of public safety for the purpose of obtaining
37 a state and federal criminal records check pursuant to section 41-1750 and
38 Public Law 92-544. The department of public safety may exchange this
39 fingerprint data with the federal bureau of investigation.

40 C. Child care providers shall have a valid fingerprint clearance card
41 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
42 or shall apply for a fingerprint clearance card by the date of registration
43 with the department.

44 D. By the date of registration, child care providers shall certify on
45 forms that are provided by the department and notarized whether:

1 1. They are awaiting trial on or have been convicted of or admitted
2 committing any of the ~~following~~ criminal offenses LISTED IN SECTION
3 41-1758.07, SUBSECTION B OR C in this state or similar offenses in another
4 state or jurisdiction~~:-~~.

- 5 ~~(a) Sexual abuse of a minor.~~
- 6 ~~(b) Incest.~~
- 7 ~~(c) First or second degree murder.~~
- 8 ~~(d) Kidnapping.~~
- 9 ~~(e) Arson.~~
- 10 ~~(f) Sexual assault.~~
- 11 ~~(g) Sexual exploitation of a minor.~~
- 12 ~~(h) Felony offenses involving contributing to the delinquency of a~~
13 ~~minor.~~
- 14 ~~(i) Commercial sexual exploitation of a minor.~~
- 15 ~~(j) Felony offenses involving sale, distribution or transportation of,~~
16 ~~offer to sell, transport or distribute or conspiracy to sell, transport or~~
17 ~~distribute marijuana, dangerous drugs or narcotic drugs.~~
- 18 ~~(k) Felony offenses involving the possession or use of marijuana,~~
19 ~~dangerous drugs or narcotic drugs.~~
- 20 ~~(l) Burglary.~~
- 21 ~~(m) Aggravated or armed robbery.~~
- 22 ~~(n) Robbery.~~
- 23 ~~(o) A dangerous crime against children as defined in section~~
24 ~~13-604.01.~~
- 25 ~~(p) Child abuse.~~
- 26 ~~(q) Sexual conduct with a minor.~~
- 27 ~~(r) Molestation of a child.~~
- 28 ~~(s) Manslaughter.~~
- 29 ~~(t) Assault or aggravated assault.~~
- 30 ~~(u) Exploitation of minors involving drug offenses.~~
- 31 ~~(v) A violation of section 28-1381, 28-1382 or 28-1383.~~
- 32 ~~(w) Offenses involving domestic violence.~~

33 2. They are parents or guardians of a child adjudicated to be a
34 dependent child as defined in section 8-201.

35 3. They have been denied a license to operate a child care facility
36 for cause in this state or another state or had a license or certificate to
37 operate a child care facility revoked.

38 E. The notarized forms are confidential.

39 F. Each applicant for registration shall not have been the subject of
40 an investigation where a report of child abuse or neglect has been
41 substantiated.

42 G. Each applicant shall maintain current training and certification in
43 first aid and infant and child cardiopulmonary resuscitation.

44 H. The applicant shall enclose any pool on the applicant's premises
45 pursuant to section 36-1681, subsections A, B and C.

1 I. The applicant shall separately store firearms and ammunition under
2 lock and key or combination lock.

3 J. The department shall adopt rules to carry out this section.

4 K. The director shall charge a fee for processing the fingerprint
5 information required pursuant to this section.

6 L. Any obligation or liability under this section is governed by the
7 provisions of section 41-1967, subsections F, G and H.

8 M. For the purposes of this section, "child care provider" means a
9 registered child care home provider pursuant to subsection A of this section.

10 Sec. 20. Section 41-1968, Arizona Revised Statutes, is amended to
11 read:

12 41-1968. DES employees; fingerprint requirement; definition

13 Each employee of the department who has contact with children or
14 vulnerable adults shall have a valid fingerprint clearance card issued
15 pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07 or
16 provide to the department documentation of the person's application for a
17 fingerprint clearance card. The employee shall certify on forms that are
18 provided by the department and that are notarized whether the employee is
19 awaiting trial on or has ever been convicted of any of the criminal offenses
20 listed in section ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or
21 similar offenses in another state or jurisdiction. For the purposes of this
22 section, "vulnerable adult" has the same meaning prescribed in section
23 13-3623.

24 Sec. 21. Section 41-1969, Arizona Revised Statutes, is amended to
25 read:

26 41-1969. Information technology personnel; criminal history
27 records

28 A. Each employee of the department of economic security who is
29 employed in an information technology position shall have a valid fingerprint
30 clearance card issued pursuant to ~~chapter 12, article 3.1 of this title~~
31 SECTION 41-1758.07 or provide to the department documentation of the person's
32 application for a fingerprint clearance card. Before accepting an offer of
33 employment, an applicant for an information technology position in the
34 department of economic security shall have a valid fingerprint clearance card
35 issued pursuant to ~~chapter 12, article 3.1 of this title~~ SECTION 41-1758.07
36 or provide to the department documentation of the person's application for a
37 fingerprint clearance card.

38 B. The department of economic security shall not disclose information
39 obtained pursuant to subsection A of this section except to members of the
40 department's staff solely for employment purposes.

41 Sec. 22. Section 46-141, Arizona Revised Statutes, is amended to read:

42 46-141. Criminal record information checks; fingerprinting
43 employees and applicants

44 A. Each license granted by the department of economic security and
45 each contract entered into between the department of economic security and

1 any contract provider for the provision of services to juveniles shall
2 provide that, as a condition of employment, personnel who are employed by the
3 licensee or contractor, whether paid or not, and who are required or allowed
4 to provide services directly to juveniles shall have a valid fingerprint
5 clearance card issued pursuant to ~~title 41, chapter 12, article 3.1~~ SECTION
6 41-1758.07 or shall apply for a fingerprint clearance card within seven
7 working days of employment.

8 B. The licensee or contractor shall assume the costs of fingerprint
9 checks and may charge these costs to its fingerprinted personnel. The
10 department may allow all or part of the costs of fingerprint checks to be
11 included as an allowable cost in a contract.

12 C. A service contract or license with any contract provider or
13 licensee that involves the employment of persons who have contact with
14 juveniles shall provide that the contract or license may be canceled or
15 terminated immediately if a person certifies pursuant to subsections F and G
16 of this section that the person is awaiting trial on or has been convicted of
17 any of the offenses listed in subsections F and G of this section in this
18 state or similar offenses in another state or jurisdiction or if the person
19 does not possess or is denied issuance of a valid fingerprint clearance card.

20 D. A contract provider or licensee may avoid cancellation or
21 termination of the contract or license under subsection C of this section if
22 a person who does not possess or has been denied issuance of a valid
23 fingerprint clearance card or who certifies pursuant to subsections F and G
24 of this section that the person has been convicted of or is awaiting trial on
25 any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection B is
26 immediately prohibited from employment or service with the contract provider
27 or licensee in any capacity requiring or allowing contact with juveniles.

28 E. A contract provider or licensee may avoid cancellation or
29 termination of the contract or license under subsection C of this section if
30 a person who does not possess or has been denied issuance of a valid
31 fingerprint clearance card or who certifies pursuant to subsections F and G
32 of this section that the person has been convicted of or is awaiting trial on
33 any of the offenses listed in section ~~41-1758.03~~ 41-1758.07, subsection C is
34 immediately prohibited from employment or service with the contract provider
35 or licensee in any capacity requiring contact with juveniles unless the
36 person is granted a good cause exception pursuant to section 41-619.55.

37 F. Personnel who are employed by any contract provider or licensee,
38 whether paid or not, and who are required or allowed to provide services
39 directly to juveniles shall certify on forms provided by the department of
40 economic security and notarized whether they are awaiting trial on or have
41 ever been convicted of any of the criminal offenses listed in section
42 ~~41-1758.03~~ 41-1758.07, subsections B and C in this state or similar offenses
43 in another state or jurisdiction.

1 G. Personnel who are employed by any contract provider or licensee,
2 whether paid or not, and who are required or allowed to provide services
3 directly to juveniles shall certify on forms provided by the department of
4 economic security and notarized whether they have ever committed any act of
5 sexual abuse of a child, including sexual exploitation and commercial sexual
6 exploitation, or any act of child abuse.

7 H. Federally recognized Indian tribes or military bases may submit and
8 the department of economic security shall accept certifications that state
9 that personnel who are employed or who will be employed during the contract
10 term have not been convicted of, have not admitted committing or are not
11 awaiting trial on any offense under subsection F of this section.

12 I. A person who applies to the department of economic security for a
13 license or certificate or for paid or unpaid employment, including contract
14 services, and who will provide direct services to juveniles or vulnerable
15 adults shall submit a full set of fingerprints to the department for the
16 purpose of obtaining a state and federal criminal records check pursuant to
17 section 41-1750 and Public Law 92-544. The department of public safety may
18 exchange this fingerprint data with the federal bureau of investigation.
19 This subsection does not apply to those persons who are subject to section
20 8-105, 8-509, 8-802 or 41-1968.

21 J. The special services unit of the department of economic security
22 may use the department of public safety automated system to update all
23 criminal history record information in order to ensure, to the maximum extent
24 reasonably possible, complete disposition information. The department of
25 economic security may deny employment or issuance or renewal of the contract
26 or license applied for in these cases if it determines that the criminal
27 history record information indicates that such employee, applicant or
28 contractor is not qualified or suitable.

29 K. Volunteers who provide services to juveniles under the direct
30 visual supervision of the contractor's or licensee's employees are exempt
31 from the fingerprinting requirements of this section.

32 L. The department of economic security shall notify the department of
33 public safety if the department of economic security receives credible
34 evidence that a person who possesses a valid fingerprint clearance card
35 pursuant to subsection A of this section either:

- 36 1. Is arrested for or charged with an offense listed in section
37 ~~41-1758.03~~ 41-1758.07, subsection B OR C.
- 38 2. Falsified information on the form required by subsection F of this
39 section.